IC 12

TITLE 12. HUMAN SERVICES

IC 12-1

ARTICLE 1. REPEALED

(Repealed by P.L.2-1992, SEC.897.)

IC 12-2

ARTICLE 2. REPEALED

(Repealed by P.L.2-1992, SEC.897.)

IC 12-3

ARTICLE 3. REPEALED

(Repealed by P.L.2-1992, SEC.897.)

IC 12-4

ARTICLE 4. REPEALED

(Repealed by P.L.2-1992, SEC.897.)

IC 12-5

ARTICLE 5. REPEALED

(Repealed by P.L.2-1992, SEC.897.)

IC 12-6

ARTICLE 6. REPEALED

(Repealed by P.L.2-1992, SEC.897.)

IC 12-7

ARTICLE 7. GENERAL PROVISIONS AND DEFINITIONS

IC 12-7-0.1

Chapter 0.1. Effect of 1992 Recodification

IC 12-7-0.1-1

P.L.2-1992 intended to be codification and restatement of law; no effect on substantive operation of prior law; treatment of references to prior law

Sec. 1. (a) P.L.2-1992 is intended to be a codification and restatement of applicable or corresponding provisions repealed by P.L.2-1992. P.L.2-1992 is also intended to implement P.L.9-1991 to make conforming changes to carry out the legislative intent of P.L.9-1991. If P.L.2-1992 repeals and replaces a provision in the same form or in a restated form, the substantive operation and effect of that provision continue uninterrupted.

(b) A SECTION of P.L.2-1992 does not affect any:

(1) rights or liabilities accrued;

(2) penalties incurred;

(3) violations committed;

(4) proceedings begun;

(5) bonds, notes, loans, or other forms of indebtedness issued, incurred, or made; or

(6) tax levies made;

before the effective date of that SECTION of P.L.2-1992. Those rights, liabilities, penalties, offenses, proceedings, bonds, notes, loans, other forms of indebtedness, and tax levies continue and shall be imposed and enforced under prior law as if that SECTION of P.L.2-1992 had not been enacted.

(c) A reference in a statute or rule to a statute that is repealed and replaced in the same or a different form in P.L.2-1992 shall be treated after the effective date of the new provision as a reference to the new provision.

As added by P.L.220-2011, SEC.250.

IC 12-7-0.1-2

Status of rules adopted under prior law

Sec. 2. (a) Except as provided in subsection (b), a rule adopted under a provision repealed by P.L.2-1992 is valid and effective until a rule is adopted under IC 4-22-2 that:

(1) supersedes in whole or in part the rule adopted under a provision repealed by P.L.2-1992; or

(2) repeals the rule adopted under a provision repealed by P.L.2-1992.

(b) If a rule adopted under a provision repealed by P.L.2-1992 before the effective date of the SECTION of P.L.2-1992 enacting or amending the statute authorizing the adoption:

(1) has not been superseded or repealed as provided in

subsection (a); and

(2) provides authority to a state agency that has been transferred to another state agency under P.L.2-1992;

the rule shall be interpreted to constitute an authorization to the state agency to which authority was transferred and not the former agency.
As added by P.L.220-2011, SEC.250.

IC 12-7-0.1-3
Preservation of background material related to recodification

Sec. 3. The general assembly may, by concurrent resolution, preserve any of the background materials related to P.L.2-1992.
As added by P.L.220-2011, SEC.250.

IC 12-7-1
Chapter 1. Application

IC 12-7-1-1
Application of definitions

Sec. 1. Except as otherwise provided, the definitions in this article apply throughout this title.
As added by P.L.2-1992, SEC.1.

IC 12-7-1-2
References to federal statutes or regulations

Sec. 2. Except as otherwise provided in this title, a reference to federal statute or regulation in this title is a reference to the statute or regulation as in effect on January 1, 1992.
As added by P.L.2-1992, SEC.1.

IC 12-7-1-3
References to federal statutes or regulations relating to the National Voter Registration Act

Sec. 3. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the federal National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, 2005.
As added by P.L.122-2000, SEC.15. Amended by P.L.81-2005, SEC.32 and P.L.230-2005, SEC.69.

IC 12-7-1-4
No effect of P.L.9-1991 on rights, liabilities, penalties, crimes, or proceedings

Sec. 4. P.L.9-1991 does not affect:
(1) rights or liabilities accrued;
(2) penalties incurred;
(3) crimes committed; or
(4) proceedings begun;
before January 1, 1992. Those rights, liabilities, penalties, crimes, and proceedings continue and shall be imposed and enforced under prior law as if P.L.9-1991 had not been enacted.
As added by P.L.220-2011, SEC.251.

IC 12-7-1-5
Legalization of actions taken under certain statutes after June 30, 1999, and before December 1, 1999

Sec. 5. Actions taken under IC 12-8-1 (expired), IC 12-8-2 (expired), IC 12-8-6 (expired), and IC 12-8-8 (expired) after June 30, 1999, and before December 1, 1999, are legalized and validated to the extent that those actions would have been legal and valid if P.L.7-2000 had been enacted before July 1, 1999.
As added by P.L.220-2011, SEC.252. Amended by P.L.160-2012, SEC.7.

IC 12-7-2
Chapter 2. Definitions

IC 12-7-2-1
Repealed
(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-1.3
Activities of daily living
Sec. 1.3. "Activities of daily living", for purposes of IC 12-10-10 and IC 12-10-11.5, has the meaning set forth in IC 12-10-10-1.5.
As added by P.L.150-1995, SEC.1. Amended by P.L.274-2003, SEC.1.

IC 12-7-2-1.5
Administrator
Sec. 1.5. "Administrator", for purposes of:
(1) IC 12-10-15, has the meaning set forth in IC 12-10-15-1.5; and
(2) IC 12-24-17, has the meaning set forth in IC 12-24-17-1.
As added by P.L.74-1992, SEC.2. Amended by P.L.184-2003, SEC.2.

IC 12-7-2-1.8
Adult entertainment establishment
Sec. 1.8. "Adult entertainment establishment", for purposes of IC 12-13-14-4.5, means a place that provides adult oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.
As added by P.L.3-2012, SEC.1.

IC 12-7-2-2
Adult protective services unit
Sec. 2. "Adult protective services unit", for purposes of IC 12-10-3, has the meaning set forth in IC 12-10-3-1.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-3
Advance
Sec. 3. "Advance", for purposes of IC 12-20-25-41, has the meaning set forth in IC 12-20-25-41.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-3.3
Advisory committee
Sec. 3.3. "Advisory committee", for purposes of IC 12-15-35-51, has the meaning set forth in IC 12-15-35-51.
As added by P.L.36-2009, SEC.1.

IC 12-7-2-4
Advocacy

Sec. 4. "Advocacy", for purposes of IC 12-28-1, has the meaning set forth in IC 12-28-1-2.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-5
Advocate
Sec. 5. "Advocate", for purposes of IC 12-26, refers to a person who:
(1) is a court appointed special advocate (as defined in IC 31-9-2-28); or
(2) is a guardian ad litem (as defined in IC 31-9-2-50).
As added by P.L.2-1992, SEC.1. Amended by P.L.1-1997, SEC.48.

IC 12-7-2-6
AFDC
Sec. 6. "AFDC" refers to the Aid to Families with Dependent Children program.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-7
Affected agency
Sec. 7. "Affected agency", for purposes of IC 12-16-1, has the meaning set forth in IC 12-16-1-1.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-8
Aged
Sec. 8. "Aged", for purposes of IC 12-10-1 and IC 12-10-2, means an individual who is at least sixty (60) years of age.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-9
Agency
Sec. 9. "Agency" means the following:
(1) For purposes of IC 12-10-12, the meaning set forth in IC 12-10-12-1.
(2) For purposes of IC 12-12.7-2, the meaning set forth in IC 12-12.7-2-1.
(3) For purposes of IC 12-32-1, the meaning set forth in IC 12-32-1-1.
As added by P.L.2-1992, SEC.1. Amended by P.L.21-1992, SEC.3; P.L.93-2006, SEC.3; P.L.171-2011, SEC.9.

IC 12-7-2-10
Alcohol abuse
Sec. 10. "Alcohol abuse", for purposes of IC 12-23, means repeated episodes of intoxication or drinking which impair health or interfere with an individual's effectiveness on the job, at home, in the community, or operating a motor vehicle.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-11
Alcohol abuser

Sec. 11. "Alcohol abuser", for purposes of IC 12-23, means an individual who has had repeated episodes of intoxication or drinking which impair the individual's health or interfere with the individual's effectiveness on the job, at home, in the community, or in operating a motor vehicle.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-12
Alcohol and drug services program

Sec. 12. "Alcohol and drug services program", for purposes of IC 12-23, means a service for a person:

(1) arrested for, charged with, or convicted of a misdemeanor or felony;

(2) against whom a:

(A) complaint for an infraction is filed; or

(B) judgment for an infraction is entered; or

(3) who is referred to a program under IC 12-23-14-5;

which provides intervention, education, referral, treatment, or rehabilitation, under the operation of a court or under private contract.

As added by P.L.2-1992, SEC.1. Amended by P.L.168-2002, SEC.1; P.L.80-2003, SEC.1; P.L.187-2011, SEC.2.

IC 12-7-2-13
Alcoholic

Sec. 13. "Alcoholic", for purposes of IC 12-23, means an individual who chronically and habitually uses alcoholic beverages to the extent that the individual:

(1) loses the power of self control with respect to the use of alcoholic beverages; and

(2) becomes a menace to the public morals, health, safety, or welfare of the members of society in general.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-14
Alcoholism

Sec. 14. "Alcoholism", for purposes of IC 12-23, means the abnormal condition which the effect of alcohol produces in an alcoholic.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-14.3
Alzheimer's and dementia special care

Sec. 14.3. "Alzheimer's and dementia special care", for purposes of IC 12-10-5.5, has the meaning set forth in IC 12-10-5.5-1.

As added by P.L.106-1997, SEC.1.

IC 12-7-2-14.7

Ancillary services

Sec. 14.7. "Ancillary services", for purposes of IC 12-10-17.1, has the meaning set forth in IC 12-10-17.1-2.

As added by P.L.255-2001, SEC.1. Amended by P.L.141-2006, SEC.11.

IC 12-7-2-15

Applicant

Sec. 15. "Applicant" means the following:

(1) For purposes of the following statutes, a person who has applied for assistance for the applicant or another person under any of the following statutes:

(A) IC 12-10-6.

(B) IC 12-10-12.

(C) IC 12-13.

(D) IC 12-14.

(E) IC 12-15.

(F) IC 12-19.

(2) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-1.

(3) For purposes of IC 12-17-13, the meaning set forth in IC 12-17-13-1.

(4) For the purposes of IC 12-17.2, a person who seeks a license to operate a child care center or child care home.

(5) For purposes of IC 31-27, a person who seeks a license to operate a child caring institution, foster family home, group home, or child placing agency.

As added by P.L.2-1992, SEC.1. Amended by P.L.20-1992, SEC.4; P.L.81-1992, SEC.4; P.L.1-1993, SEC.68; P.L.61-1993, SEC.2; P.L.272-1999, SEC.6; P.L.145-2006, SEC.32.

IC 12-7-2-15.5

Appropriate and medically necessary

Sec. 15.5. "Appropriate and medically necessary", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-1.

As added by P.L.75-1992, SEC.1.

IC 12-7-2-16

Approved postsecondary educational institution

Sec. 16. "Approved postsecondary educational institution" has the meaning set forth in IC 21-7-13-6(a).

As added by P.L.2-1992, SEC.1. Amended by P.L.2-2007, SEC.153.

IC 12-7-2-17

Asset disregard

Sec. 17. "Asset disregard", for purposes of IC 12-15-39.6, has the meaning set forth in IC 12-15-39.6-10.

As added by P.L.2-1992, SEC.1. Amended by P.L.24-1997, SEC.5.

IC 12-7-2-18

Assistance

Sec. 18. "Assistance", for purposes of the following statutes, means money or services regardless of the source, paid or furnished under any of the following statutes:

(1) IC 12-10-6.
(2) IC 12-10-12.
(3) IC 12-13.
(4) IC 12-14.
(5) IC 12-15.
(6) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.272-1999, SEC.7; P.L.145-2006, SEC.33.

IC 12-7-2-18.3
Attendant care services

Sec. 18.3. "Attendant care services", for purposes of IC 12-10-17.1, has the meaning set forth in IC 12-10-17.1-3.

As added by P.L.255-2001, SEC.2. Amended by P.L.141-2006, SEC.12.

IC 12-7-2-18.7
Automated teller machine

Sec. 18.7. "Automated teller machine", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

As added by P.L.257-1997(ss), SEC.2.

IC 12-7-2-19
Autism

Sec. 19. (a) "Autism", for purposes of IC 12-11-8, has the meaning set forth in IC 12-11-8-1.

(b) "Autism", for purposes of IC 12-11-1.1-6 and IC 12-28-4-13, refers to the characteristics of a neurological disorder that is described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

As added by P.L.2-1992, SEC.1. Amended by P.L.99-2007, SEC.41; P.L.188-2013, SEC.3.

IC 12-7-2-20
Repealed

(Repealed by P.L.99-2007, SEC.224.)

IC 12-7-2-20.5
Basic necessities

Sec. 20.5. "Basic necessities", for purposes of IC 12-20, includes those services or items essential to meet the minimum standards of health, safety, and decency, including the following:

(1) Medical care described in IC 12-20-16-2.
(2) Clothing and footwear.
(3) Food.

(4) Shelter.
(5) Transportation to seek and accept employment on a reasonable basis.
(6) Household essentials.
(7) Essential utility services.
(8) Other services or items the township trustee determines are necessities.

As added by P.L.51-1996, SEC.2.

IC 12-7-2-20.7
Basic services

Sec. 20.7. "Basic services", for purposes of IC 12-10-17.1, has the meaning set forth in IC 12-10-17.1-4.

As added by P.L.255-2001, SEC.3. Amended by P.L.141-2006, SEC.13.

IC 12-7-2-21
Blind

Sec. 21. "Blind" means the following:

(1) For purposes of the following statutes, the term refers to an individual who has vision in the better eye with correcting glasses of 20/200 or less, or a disqualifying visual field defect as determined upon examination by an ophthalmologist or optometrist who has been designated to make such examinations by the county office and approved by the division of family resources or by the division in the manner provided in any of the following statutes:
(A) IC 12-10-6.
(B) IC 12-10-12.
(C) IC 12-13.
(D) IC 12-14.
(E) IC 12-15.
(F) IC 12-19.

(2) For purposes of the following statutes, the term refers to an individual who has a central visual acuity of 20/200 or less in the individual's better eye with the best correction or a field of vision that is not greater than twenty (20) degrees at its widest diameter:
(A) IC 12-12-1.
(B) IC 12-12-3.
(C) IC 12-12-5.
(D) IC 12-12-6.

As added by P.L.2-1992, SEC.1. Amended by P.L.4-1993, SEC.17; P.L.5-1993, SEC.30; P.L.49-1997, SEC.41; P.L.272-1999, SEC.9; P.L.145-2006, SEC.34.

IC 12-7-2-22
Board

Sec. 22. "Board" means the following:

(1) For purposes of IC 12-10-10, IC 12-10-10.5, and

IC 12-10-11, the community and home options to institutional care for the elderly and disabled board established by IC 12-10-11-1.

(2) For purposes of 12-12-7-5, the meaning set forth in IC 12-12-7-5(a).

(3) For purposes of IC 12-15-35, the meaning set forth in IC 12-15-35-2.

As added by P.L.2-1992, SEC.1. Amended by P.L.75-1992, SEC.2; P.L.20-1992, SEC.5; P.L.81-1992, SEC.5; P.L.1-1993, SEC.69; P.L.40-1994, SEC.6; P.L.104-1996, SEC.1; P.L.23-1996, SEC.10; P.L.24-1997, SEC.6; P.L.272-1999, SEC.10; P.L.145-2006, SEC.35; P.L.145-2014, SEC.1.

IC 12-7-2-23
Body

Sec. 23. "Body", for purposes of IC 12-8-2.5, has the meaning set forth in IC 12-8-2.5-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.160-2012, SEC.8.

IC 12-7-2-24
Bureau

Sec. 24. "Bureau" means the following:

(1) For purposes of IC 12-10, the bureau of aging and in-home services established by IC 12-10-1-1.

(2) For purposes of IC 12-11, the bureau of developmental disabilities services established by IC 12-11-1.1-1.

(3) For purposes of IC 12-12, the rehabilitation services bureau of the division of disability and rehabilitative services established by IC 12-12-1-1.

(4) For purposes of IC 12-12.5, the bureau of quality improvement services established by IC 12-12.5-1-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.4-1993, SEC.18; P.L.5-1993, SEC.31; P.L.1-1994, SEC.47; P.L.40-1994, SEC.7; P.L.272-1999, SEC.11; P.L.243-2003, SEC.1; P.L.141-2006, SEC.14; P.L.145-2006, SEC.36; P.L.1-2007, SEC.104.

IC 12-7-2-24.5
Buy-in program

Sec. 24.5. "Buy-in program", as used in IC 12-15-41, has the meaning set forth in IC 12-15-41-1.

As added by P.L.287-2001, SEC.2.

IC 12-7-2-24.6
Caregiver

Sec. 24.6. "Caregiver", for purposes of IC 12-17.2, means an individual who is assigned by a provider the responsibility for supervising a specific child in the care of the provider.

As added by P.L.18-2003, SEC.1.

IC 12-7-2-24.7

Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-7-2-24.8

Caretaker

Sec. 24.8. "Caretaker", for purposes of IC 12-10.5, has the meaning set forth in IC 12-10.5-1-1.

As added by P.L.274-2003, SEC.2.

IC 12-7-2-24.9

Case contact

Sec. 24.9. "Case contact", for purposes of IC 12-20-28-3, has the meaning set forth in IC 12-20-28-3(b).

As added by P.L.180-2005, SEC.1.

IC 12-7-2-25

Case management

Sec. 25. "Case management", for purposes of IC 12-10-1 and IC 12-10-10, has the meaning set forth in IC 12-10-10-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.40-1994, SEC.8; P.L.150-1995, SEC.2; P.L.143-2011, SEC.3.

IC 12-7-2-26

Center

Sec. 26. "Center", for purposes of IC 12-26, means a community mental health center.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-26.1

Center for independent living

Sec. 26.1. "Center for independent living", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-1.

As added by P.L.151-1995, SEC.2. Amended by P.L.272-1999, SEC.12.

IC 12-7-2-26.5

Chemical test

Sec. 26.5. "Chemical test", for purposes of IC 12-23-14, means an analysis of an individual's:

(1) blood;
(2) breath;
(3) hair;
(4) sweat;
(5) saliva;
(6) urine; or
(7) other bodily substance;

to determine the presence of alcohol or a controlled substance (as defined in IC 35-48-1-9).

As added by P.L.168-2002, SEC.2. Amended by P.L.108-2010, SEC.3.

IC 12-7-2-27
Chief magistrate

Sec. 27. "Chief magistrate", for purposes of IC 12-28-3, has the meaning set forth in IC 12-28-3-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-28
Child

Sec. 28. "Child" means the following:

(1) For purposes of IC 12-17.2, an individual who is less than eighteen (18) years of age.

(2) For purposes of IC 12-26, the meaning set forth in IC 31-9-2-13(d).

As added by P.L.2-1992, SEC.1. Amended by P.L.20-1992, SEC.6 and P.L.81-1992, SEC.6; P.L.1-1993, SEC.70; P.L.1-1997, SEC.49; P.L.34-2001, SEC.1; P.L.70-2004, SEC.2; P.L.145-2006, SEC.37.

IC 12-7-2-28.1
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-28.2
Child care

Sec. 28.2. "Child care", for purposes of IC 12-17.2, means a service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.

As added by P.L.20-1992, SEC.7 and P.L.81-1992, SEC.7. Amended by P.L.1-1993, SEC.71; P.L.145-2006, SEC.38.

IC 12-7-2-28.4
Child care center

Sec. 28.4. "Child care center", for purposes of IC 12-17.2, means a nonresidential building where at least one (1) child receives child care from a provider:

(1) while unattended by a parent, legal guardian, or custodian;

(2) for regular compensation; and

(3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

As added by P.L.20-1992, SEC.8; P.L.81-1992, SEC.8. Amended by P.L.1-1993, SEC.72; P.L.136-1993, SEC.1; P.L.1-1994, SEC.48; P.L.247-2001, SEC.4.

IC 12-7-2-28.6
Child care home

Sec. 28.6. (a) "Child care home", for purposes of IC 12-17.2, means a residential structure in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative or any child who is at least fourteen (14) years of age and does not require child care) at any

time receive child care from a provider:

(1) while unattended by a parent, legal guardian, or custodian;

(2) for regular compensation; and

(3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

(b) The term includes:

(1) a class I child care home; and

(2) a class II child care home.

As added by P.L.20-1992, SEC.9 and P.L.81-1992, SEC.9. Amended by P.L.1-1993, SEC.73; P.L.136-1993, SEC.2; P.L.124-2007, SEC.1.

IC 12-7-2-28.8
Child care ministry

Sec. 28.8. "Child care ministry", for purposes of IC 12-17.2, means child care operated by a church or religious ministry that is a religious organization exempt from federal income taxation under Section 501 of the Internal Revenue Code.

As added by P.L.20-1992, SEC.10 and P.L.81-1992, SEC.10. Amended by P.L.1-1993, SEC.74.

IC 12-7-2-28.9
Child care program

Sec. 28.9. "Child care program", for purposes of IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-3.5-1.2.

As added by P.L.18-2003, SEC.2.

IC 12-7-2-29
Child caring institution

Sec. 29. "Child caring institution", for purposes of section 82(3) of this chapter and IC 12-26, means an institution that:

(1) operates under a license issued under IC 31-27;

(2) provides for delivery of mental health services that are appropriate to the needs of the individual; and

(3) complies with the rules adopted under IC 4-22-2 by the department of child services.

As added by P.L.2-1992, SEC.1. Amended by P.L.20-1992, SEC.11; P.L.81-1992, SEC.11; P.L.1-1993, SEC.75; P.L.61-1993, SEC.3; P.L.145-2006, SEC.39.

IC 12-7-2-30
Child in need of services

Sec. 30. "Child in need of services", for purposes of the following statutes, has the meaning set forth in IC 31-34-1-1 through IC 31-34-1-9:

(1) IC 12-13.

(2) IC 12-14.

(3) IC 12-15.

(4) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.1-1997, SEC.50;

P.L.145-2006, SEC.40.

IC 12-7-2-31
Repealed
(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-31.5
Repealed
(Repealed by P.L.234-2005, SEC.192.)

IC 12-7-2-31.6
Repealed
(Repealed by P.L.234-2005, SEC.192.)

IC 12-7-2-32
Child welfare services
Sec. 32. "Child welfare services", for purposes of the following statutes, has the meaning set forth in IC 31-9-2-19.5:
(1) IC 12-13.
(2) IC 12-14.
(3) IC 12-15.
As added by P.L.2-1992, SEC.1. Amended by P.L.145-2006, SEC.41; P.L.146-2008, SEC.375.

IC 12-7-2-33
Repealed
(Repealed by P.L.61-1993, SEC.67.)

IC 12-7-2-33.5
Chronically medically dependent
Sec. 33.5. "Chronically medically dependent" for purposes of IC 12-15-36, has the meaning set forth in IC 12-15-36-2.
As added by P.L.76-1992, SEC.1.

IC 12-7-2-33.6
Coalition
Sec. 33.6. "Coalition", for purposes of IC 12-18-8, has the meaning set forth in IC 12-18-8-1.
As added by P.L.181-2003, SEC.1.

IC 12-7-2-33.7
Class I child care home
Sec. 33.7. (a) As used in this chapter, "class I child care home" means a child care home that serves any combination of full-time and part-time children, not to exceed at any one (1) time twelve (12) children plus three (3) children during the school year only who are enrolled in at least full-day kindergarten. Except as provided in IC 12-17.2-5-6.3(b), the addition of three (3) school age children may not occur during a break in the school year that exceeds four (4) weeks.

(b) A child:

(1) for whom a provider of care in the child care home is a parent, stepparent, guardian, custodian, or other relative and who is at least seven (7) years of age; or

(2) who is at least fourteen (14) years of age and does not require child care;

shall not be counted in determining whether the child care home is within the limit set forth in subsection (a).

As added by P.L.136-1993, SEC.3. Amended by P.L.106-1996, SEC.1; P.L.247-2001, SEC.5; P.L.124-2007, SEC.2; P.L.197-2011, SEC.38.

IC 12-7-2-33.8
Class II child care home

Sec. 33.8. (a) As used in this chapter, "class II child care home" means a child care home that serves more than twelve (12) children but not more than any combination of sixteen (16) full-time and part-time children at any one (1) time.

(b) A child:

(1) for whom a provider of care in the child care home is a parent, stepparent, guardian, custodian, or other relative and who is at least seven (7) years of age; or

(2) who is at least fourteen (14) years of age and does not require child care;

shall not be counted in determining whether the child care home is within the limit set forth in subsection (a).

As added by P.L.136-1993, SEC.4. Amended by P.L.124-2007, SEC.3.

IC 12-7-2-33.9
Clean claim

Sec. 33.9. (a) "Clean claim", for purposes of IC 12-15-13, except for IC 12-15-13-1 and IC 12-15-13-1.5, has the meaning set forth in IC 12-15-13-0.5.

(b) "Clean claim", for purposes of IC 12-15-13-1 and IC 12-15-13-1.5, has the meaning set forth in IC 12-15-13-0.6.

As added by P.L.107-1996, SEC.1 and P.L.257-1996, SEC.1.

IC 12-7-2-34
Commission

Sec. 34. "Commission" means the following:

(1) For purposes of IC 12-10-2, the meaning set forth in IC 12-10-2-1.

(2) For purposes of IC 12-12-2, the meaning set forth in IC 12-12-2-1.

(3) For purposes of IC 12-13-14, the meaning set forth in IC 12-13-14-1.

(4) For purposes of IC 12-15-46-2, the meaning set forth in IC 12-15-46-2(a).

(5) For purposes of IC 12-28-1, the meaning set forth in

IC 12-28-1-3.

As added by P.L.2-1992, SEC.1. Amended by P.L.42-1995, SEC.4; P.L.2-1997, SEC.29; P.L.12-2006, SEC.1; P.L.181-2006, SEC.50; P.L.1-2007, SEC.105; P.L.6-2012, SEC.80; P.L.53-2014, SEC.96.

IC 12-7-2-34.2
Commissioner

Sec. 34.2. "Commissioner", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-1.5.

As added by P.L.217-2005, SEC.1.

IC 12-7-2-35 Version a
Committee

Note: This version of section effective until 3-24-2014. See also following version of this section, effective 3-24-2014.

Sec. 35. "Committee" means the following:

(1) For purposes of IC 12-15-33, the meaning set forth in IC 12-15-33-1.

(2) For purposes of IC 12-17.2-3.3, the meaning set forth in IC 12-17.2-3.3-1.

(3) For the purposes of IC 12-17.2-3.6, the meaning set forth in IC 12-17.2-3.6-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.2-1995, SEC.44; P.L.42-1995, SEC.5; P.L.107-2005, SEC.1; P.L.1-2007, SEC.106; P.L.229-2011, SEC.105; P.L.205-2013, SEC.172; P.L.2-2014, SEC.56.

IC 12-7-2-35 Version b
Committee

Note: This version of section effective 3-24-2014. See also preceding version of this section, effective until 3-24-2014.

Sec. 35. "Committee" means the following:

(1) For purposes of IC 12-15-33, the meaning set forth in IC 12-15-33-1.

(2) For purposes of IC 12-17.2-3.6, the meaning set forth in IC 12-17.2-3.6-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.2-1995, SEC.44; P.L.42-1995, SEC.5; P.L.107-2005, SEC.1; P.L.1-2007, SEC.106; P.L.229-2011, SEC.105; P.L.205-2013, SEC.172; P.L.2-2014, SEC.56; P.L.53-2014, SEC.97.

IC 12-7-2-36
Community action agency

Sec. 36. "Community action agency", for purposes of IC 12-14-23, has the meaning set forth in IC 12-14-23-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-37
Community and home care services

Sec. 37. "Community and home care services", for purposes of

IC 12-10-10, has the meaning set forth in IC 12-10-10-2.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-38
Community mental health center

Sec. 38. "Community mental health center" means a program of services that meets the following conditions:

(1) Is approved by the division of mental health and addiction.

(2) Is organized for the purpose of providing multiple services for persons with mental illness or a chronic addictive disorder.

(3) Is operated by one (1) of the following or any combination of the following:

(A) A city, a town, a county, or another political subdivision of Indiana.

(B) An agency of the state.

(C) An agency of the United States.

(D) A political subdivision of another state.

(E) A hospital owned or operated by a unit of government described in clauses (A) through (D).

(F) A building authority organized for the purpose of constructing facilities to be leased to units of government.

(G) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.

(H) A nonprofit corporation incorporated in another state.

(I) A university or college.

As added by P.L.2-1992, SEC.1. Amended by P.L.23-1993, SEC.35; P.L.40-1994, SEC.9; P.L.215-2001, SEC.24.

IC 12-7-2-39
Community mental retardation and other developmental disabilities centers

Sec. 39. "Community mental retardation and other developmental disabilities centers", for purposes of IC 12-29 (except as provided in IC 12-29-3-6), means a program of services that meets the following conditions:

(1) Is approved by the division of disability and rehabilitative services.

(2) Is organized for the purpose of providing multiple services for persons with developmental disabilities.

(3) Is operated by one (1) of the following or any combination of the following:

(A) A city, a town, a county, or another political subdivision of Indiana.

(B) An agency of the state.

(C) An agency of the United States.

(D) A political subdivision of another state.

(E) A hospital owned or operated by a unit of government described in clauses (A) through (D).

(F) A building authority organized for the purpose of constructing facilities to be leased to units of government.

(G) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.
(H) A nonprofit corporation incorporated in another state.
(I) A university or college.
(4) Is accredited for the services provided by one (1) of the following organizations:
(A) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.
(B) The Council on Quality and Leadership in Supports for People with Disabilities, or its successor.
(C) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.
(D) The National Commission on Quality Assurance, or its successor.
(E) An independent national accreditation organization approved by the secretary.

As added by P.L.2-1992, SEC.1. Amended by P.L.23-1993, SEC.36; P.L.4-1993, SEC.19; P.L.5-1993, SEC.32; P.L.1-1994, SEC.49; P.L.24-1997, SEC.7; P.L.64-2002, SEC.2; P.L.141-2006, SEC.15.

IC 12-7-2-40
Community based residential program

Sec. 40. "Community based residential program", for purposes of IC 12-22-2, refers to the programs described in IC 12-22-2-3.5.

As added by P.L.2-1992, SEC.1. Amended by P.L.272-1999, SEC.13; P.L.143-2011, SEC.4.

IC 12-7-2-40.2
Community spouse

Sec. 40.2. "Community spouse", for purposes of IC 12-15-2, means an individual who:
(1) is the spouse of an individual who resides in a nursing facility or another medical institution; and
(2) does not reside in a nursing facility or another medical institution.

As added by P.L.246-2005, SEC.98.

IC 12-7-2-40.5
Compendia

Sec. 40.5. "Compendia", for purposes of IC 12-15-35 and IC 12-15-35.5, has the meaning set forth in IC 12-15-35-3.

As added by P.L.75-1992, SEC.3. Amended by P.L.107-2002, SEC.4.

IC 12-7-2-40.6
Continuum of care

Sec. 40.6. (a) "Continuum of care" means a range of services:
(1) defined by the division in rules adopted under IC 4-22-2 to provide a comprehensive continuum of care by a community mental health center or other provider; and
(2) based on recovery focused models of care and that are

intended to meet the individual treatment needs of the behavioral health consumer.

(b) The continuum of care may include the following services:

(1) Wellness programs.

(2) Engagement services.

(3) Outpatient and inpatient services.

(4) Rehabilitative and habilitative services.

(5) Residential care and supported housing.

(6) Acute intensive services.

All services must support prevention and treatment of mental health and addiction for all populations.

As added by P.L.40-1994, SEC.10. Amended by P.L.143-2011, SEC.5.

IC 12-7-2-40.7

Consumer control

Sec. 40.7. "Consumer control", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-2.

As added by P.L.151-1995, SEC.3. Amended by P.L.272-1999, SEC.14.

IC 12-7-2-41

Contracting county

Sec. 41. "Contracting county", for purposes of IC 12-30-7, has the meaning set forth in IC 12-30-7-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-42

Contribution

Sec. 42. "Contribution", for purposes of IC 12-17-12, has the meaning set forth in IC 12-17-12-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-43

Control board

Sec. 43. "Control board", for purposes of IC 12-20-25, has the meaning set forth in IC 12-20-25-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-43.5

Cooperate

Sec. 43.5. (a) "Cooperate", for purposes of IC 12-14-2-24, IC 12-14-7-2, and IC 12-14-7-3, includes, with regard to nonparent custodians or guardians, the following:

(1) To appear at appointments, in person or by telephone, with a prosecuting attorney related to:

(A) establishing:

(i) paternity; or

(ii) an order for child support; or

(B) enforcing an order for child support.

(2) To return telephone calls and respond to correspondence when requested by a prosecuting attorney.

(3) To supply information, to the extent known by the nonparent custodian or guardian, for a prosecuting attorney to proceed with appropriate actions to:

(A) establish paternity of a dependent child;

(B) locate parents; or

(C) establish a child support order with respect to a child.

(4) To appear at hearings regarding:

(A) establishment of paternity of a child or a child support order; or

(B) enforcement of a child support order;

if attendance is necessary as determined by the prosecuting attorney.

(b) Information under subsection (a)(3) includes:

(1) identification of potential fathers of a dependent child, if known and paternity has not been established; and

(2) the following information, if known, regarding any parent or potential parent of a dependent child:

(A) The full legal name and nicknames.

(B) The Social Security number.

(C) The current or last known address and phone number.

(D) The current or last known employer, including the name and address of the employer.

(E) If a student, the current or last known school.

(F) The criminal record, including where and when the parent or potential parent was incarcerated.

(G) The date of birth or age.

(H) The race.

(I) Any known group or organizational affiliations.

(J) The names and addresses of close friends or relatives.

(K) Any other information that the prosecuting attorney requests to help locate or identify a parent of a dependent child.

(L) A recent photograph.

As added by P.L.80-2010, SEC.15.

IC 12-7-2-44
Council

Sec. 44. "Council" means the following:

(1) For purposes of IC 12-9-4, the meaning set forth in IC 12-9-4-1.

(2) For purposes of IC 12-12-8, the meaning set forth in IC 12-12-8-2.5.

(3) For purposes of IC 12-13-4, the meaning set forth in IC 12-13-4-1.

(4) For purposes of IC 12-12.7-2, the meaning set forth in IC 12-12.7-2-2.

(5) For purposes of IC 12-21-4, the meaning set forth in IC 12-21-4-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.21-1992, SEC.4; P.L.40-1994, SEC.11; P.L.91-1996, SEC.2; P.L.287-2001, SEC.3; P.L.217-2005, SEC.2; P.L.93-2006, SEC.4; P.L.130-2009, SEC.15; P.L.197-2011, SEC.39; P.L.229-2011, SEC.106; P.L.6-2012, SEC.81.

IC 12-7-2-44.5
Counseling

Sec. 44.5. "Counseling", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-4.
As added by P.L.75-1992, SEC.4.

IC 12-7-2-44.6
Countable asset

Sec. 44.6. "Countable asset" means the following:

(1) For purposes of IC 12-10-10.5, in determining eligibility for the community living pilot program, property that is included in determining assets in the same manner as determining an individual's eligibility for the Medicaid aged and disabled waiver.

(2) For purposes of IC 12-20, noncash property that is not necessary for the health, safety, or decent living standard of a household that:

(A) is owned wholly or in part by the applicant or a member of the applicant's household;

(B) the applicant or the household member has the legal right to sell or liquidate; and

(C) includes:

(i) real property other than property that is used for the production of income or that is the primary residence of the household;

(ii) savings and checking accounts, certificates of deposit, bonds, stocks, and other intangibles that have a net cash value; and

(iii) boats, other vehicles, or any other personal property used solely for recreational or entertainment purposes.

As added by P.L.51-1996, SEC.3. Amended by P.L.145-2014, SEC.2.

IC 12-7-2-44.7
Countable income

Sec. 44.7. "Countable income", for purposes of IC 12-20, means a monetary amount either paid to an applicant or a member of an applicant's household not more than thirty (30) days before the date of application for township assistance, or accrued and legally available for withdrawal by an applicant or a member of an applicant's household at the time of application or not more than thirty (30) days after the date of application for township assistance. The term includes the following:

(1) Gross wages before mandatory deductions.

(2) Social Security benefits, including Supplemental Security

Income.
(3) Aid to Families with Dependent Children.
(4) Unemployment compensation.
(5) Worker's compensation (except compensation that is restricted for the payment of medical expenses).
(6) Vacation pay.
(7) Sick benefits.
(8) Strike benefits.
(9) Private or public pensions.
(10) Taxable income from self-employment.
(11) Bartered goods and services provided by another individual for the payment of nonessential needs on behalf of an applicant or an applicant's household if monetary compensation or the provision of basic necessities would have been reasonably available from that individual.
(12) Child support.
(13) Gifts of cash, goods, or services.
(14) Other sources of revenue or services that the township trustee may reasonably determine to be countable income.

As added by P.L.51-1996, SEC.4. Amended by P.L.73-2005, SEC.5.

IC 12-7-2-44.9
Countable resources

Sec. 44.9. "Countable resources", for purposes of IC 12-15-41, has the meaning set forth in IC 12-15-41-2.

As added by P.L.287-2001, SEC.4.

IC 12-7-2-45
County office

Sec. 45. "County office" refers to a county office of the division of family resources.

As added by P.L.2-1992, SEC.1. Amended by P.L.4-1993, SEC.20; P.L.5-1993, SEC.33; P.L.146-2008, SEC.376; P.L.44-2009, SEC.9.

IC 12-7-2-46
County director

Sec. 46. "County director" refers to a director of a county office of the division of family resources.

As added by P.L.2-1992, SEC.1. Amended by P.L.4-1993, SEC.21; P.L.5-1993, SEC.34; P.L.145-2006, SEC.42; P.L.146-2008, SEC.377; P.L.44-2009, SEC.10.

IC 12-7-2-46.2
County home

Sec. 46.2. "County home", for purposes of IC 12-20, means a residential facility owned, staffed, maintained, and operated by a county government for eligible county residents who are able to perform activities of daily living with little or no assistance, including the following activities:

(1) Bathing.

(2) Dressing.
(3) Grooming.
(4) Walking.
(5) Using the toilet.
(6) Eating.
As added by P.L.51-1996, SEC.5.

IC 12-7-2-46.5
Court
Sec. 46.5. "Court", for purposes of IC 12-17.2, means a circuit or superior court.
As added by P.L.20-1992, SEC.13 and P.L.81-1992, SEC.13. Amended by P.L.1-1993, SEC.78; P.L.145-2006, SEC.43.

IC 12-7-2-47
Repealed
(Repealed by P.L.272-1999, SEC.66.)

IC 12-7-2-47.5
Covered entity
Sec. 47.5. "Covered entity", for purposes of IC 12-15-23.5, has the meaning set forth in IC 12-15-23.5-1.
As added by P.L.187-2007, SEC.1.

IC 12-7-2-48
Covered medical services
Sec. 48. "Covered medical services", for purposes of IC 12-16-1, has the meaning set forth in IC 12-16-1-2.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-48.5
Covered outpatient drug
Sec. 48.5. "Covered outpatient drug", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-4.5.
As added by P.L.107-2002, SEC.5.

IC 12-7-2-49
Repealed
(Repealed by P.L.272-1999, SEC.66.)

IC 12-7-2-50
Repealed
(Repealed by P.L.272-1999, SEC.66.)

IC 12-7-2-51
Creditor
Sec. 51. "Creditor", for purposes of IC 12-20-25, has the meaning set forth in IC 12-20-25-3.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-51.4
Repealed
(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-51.5
Repealed
(Repealed by P.L.1-1993, SEC.79; P.L.61-1993, SEC.67; P.L.136-1993, SEC.24.)

IC 12-7-2-51.7
Criteria
Sec. 51.7. "Criteria", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-5.
As added by P.L.1-1993, SEC.81.

IC 12-7-2-51.8
Cross-indicated drug
Sec. 51.8. "Cross-indicated drug", for purposes of IC 12-15-35.5, has the meaning set forth in IC 12-15-35.5-2.
As added by P.L.6-2002, SEC.1 and P.L.107-2002, SEC.6.

IC 12-7-2-51.9
Cross-disability
Sec. 51.9. "Cross-disability", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.
As added by P.L.151-1995, SEC.4. Amended by P.L.272-1999, SEC.15.

IC 12-7-2-52
Custodial authority of a building
Sec. 52. "Custodial authority of a building", for purposes of the following statutes, means the person authorized to contract for the provision of vending services in the building:
(1) IC 12-12-5.
(2) IC 12-12-6.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-52.2
Crowd out
Sec. 52.2. "Crowd out", for purposes of IC 12-17.6, has the meaning set forth in IC 12-17.6-1-2.
As added by P.L.273-1999, SEC.163. Amended by P.L.283-2001, SEC.9; P.L.255-2003, SEC.8.

IC 12-7-2-53
Dangerous
Sec. 53. "Dangerous", for purposes of IC 12-26, means a condition in which an individual as a result of mental illness, presents a substantial risk that the individual will harm the individual or others.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-53.2
Dangerous felony

Sec. 53.2. "Dangerous felony", for purposes of IC 12-17.2, means one (1) or more of the following felonies:

(1) Murder (IC 35-42-1-1).
(2) Attempted murder (IC 35-41-5-1).
(3) Voluntary manslaughter (IC 35-42-1-3).
(4) Involuntary manslaughter (IC 35-42-1-4).
(5) Reckless homicide (IC 35-42-1-5).
(6) Aggravated battery (IC 35-42-2-1.5).
(7) Kidnapping (IC 35-42-3-2).
(8) Rape (IC 35-42-4-1).
(9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
(10) Child molesting (IC 35-42-4-3).
(11) Sexual misconduct with a minor as a Class A felony (for a crime committed before July 1, 2014) or a Level 1 felony (for a crime committed after June 30, 2014) under IC 35-42-4-9(a)(2) or a Class B felony (for a crime committed before July 1, 2014) or a Level 2 felony (for a crime committed after June 30, 2014) under IC 35-42-4-9(b)(2).
(12) Robbery as a Class A or Class B felony (for a crime committed before July 1, 2014) or a Level 2 or Level 3 felony (for a crime committed after June 30, 2014) (IC 35-42-5-1).
(13) Burglary as a Class A or Class B felony (for a crime committed before July 1, 2014) or a Level 2 or Level 3 felony (for a crime committed after June 30, 2014) (IC 35-43-2-1).
(14) Battery as a felony (IC 35-42-2-1).
(15) Domestic battery (IC 35-42-2-1.3).
(16) Strangulation (IC 35-42-2-9).
(17) Criminal confinement (IC 35-42-3-3).
(18) Sexual battery (IC 35-42-4-8).
(19) A felony committed in another jurisdiction that is substantially similar to a felony in this section.
(20) An attempt to commit or a conspiracy to commit an offense listed in subdivisions (1) through (19).

As added by P.L.287-2013, SEC.2. Amended by P.L.168-2014, SEC.27.

IC 12-7-2-54
Repealed

(Repealed by P.L.20-1992, SEC.47.)

IC 12-7-2-55
Repealed

(Repealed by P.L.20-1992, SEC.47.)

IC 12-7-2-55.1
Repealed

(Repealed by P.L.28-2012, SEC.1.)

IC 12-7-2-55.8
"Decertify"

Sec. 55.8. "Decertify", for purposes of IC 12-17.2-3.5, means to remove, for any period of less than two (2) years, a provider's eligibility to receive a voucher payment.
As added by P.L.225-2013, SEC.1.

IC 12-7-2-56
Repealed

(Repealed by P.L.20-1992, SEC.47.)

IC 12-7-2-56.5
Repealed

(Repealed by P.L.1-2010, SEC.156.)

IC 12-7-2-57
Delinquent child

Sec. 57. "Delinquent child", for purposes of the following statutes, has the meaning set forth in IC 31-37-1 and IC 31-37-2:

(1) IC 12-13.
(2) IC 12-14.
(3) IC 12-15.
(4) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.1-1997, SEC.51; P.L.145-2006, SEC.44.

IC 12-7-2-57.5
Department

Sec. 57.5. "Department", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.
As added by P.L.2-1997, SEC.30. Amended by P.L.90-2002, SEC.338; P.L.234-2005, SEC.12; P.L.146-2008, SEC.378.

IC 12-7-2-58
Dependent child

Sec. 58. (a) "Dependent child", for purposes of the statutes listed in subsection (b), means a needy individual who satisfies either of the following conditions:

(1) The individual is less than sixteen (16) years of age.
(2) The individual is less than eighteen (18) years of age and the county office that has jurisdiction of the individual finds all of the following:
  (A) The individual regularly attends school.
  (B) The individual has been deprived of parental support or care because of a parent's:
    (i) death;
    (ii) continued absence from the home; or
    (iii) physical or mental incapacity.

(C) The individual's parent or other relative who is legally responsible for the child's support is not able to provide adequately for the individual without public assistance.
(D) The individual is living in the home of at least one (1) of the following relatives:
(i) The individual's parent.
(ii) The individual's sibling.
(iii) The individual's grandparent.
(iv) The individual's stepparent.
(v) The individual's stepbrother or stepsister.
(vi) The individual's aunt or uncle.
(b) This section applies to the following statutes:
(1) IC 12-13.
(2) IC 12-14.
(3) IC 12-15.
(4) IC 12-19.
As added by P.L.2-1992, SEC.1. Amended by P.L.4-1993, SEC.22; P.L.5-1993, SEC.35; P.L.145-2006, SEC.45.

IC 12-7-2-59
Designee
Sec. 59. "Designee", for purposes of IC 12-10-12, has the meaning set forth in IC 12-10-12-2.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-60
Destitute child
Sec. 60. (a) "Destitute child", for purposes of the statutes listed in subsection (b), means an individual:
(1) who is needy;
(2) who is not a public ward;
(3) who is less than eighteen (18) years of age;
(4) who has been deprived of parental support or care because of a parent's:
(A) death;
(B) continued absence from the home; or
(C) physical or mental incapacity; and
(5) whose relatives liable for the individual's support are not able to provide adequate care or support for the individual without public assistance; and
(6) who is in need of foster care, under circumstances that do not require the individual to be made a public ward.
(b) This section applies to the following statutes:
(1) IC 12-13.
(2) IC 12-14.
(3) IC 12-15.
(4) IC 12-19.
As added by P.L.2-1992, SEC.1. Amended by P.L.145-2006, SEC.46.

IC 12-7-2-61

Developmental disability

Sec. 61. (a) Except as provided in subsection (b), "developmental disability" means a severe, chronic disability of an individual that meets all of the following conditions:

(1) Is attributable to:

(A) intellectual disability, cerebral palsy, epilepsy, or autism; or

(B) any other condition (other than a sole diagnosis of mental illness) found to be closely related to intellectual disability, because this condition results in similar impairment of general intellectual functioning or adaptive behavior or requires treatment or services similar to those required for a person with an intellectual disability.

(2) Is manifested before the individual is twenty-two (22) years of age.

(3) Is likely to continue indefinitely.

(4) Results in substantial functional limitations in at least three

(3) of the following areas of major life activities:

(A) Self-care.

(B) Understanding and use of language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

(b) The definition in subsection (a) does not apply and may not affect services provided to an individual receiving:

(1) home and community based Medicaid waiver; or

(2) ICF/MR;

services through the division on June 30, 2011.

As added by P.L.2-1992, SEC.1. Amended by P.L.23-1993, SEC.37; P.L.229-2011, SEC.107.

IC 12-7-2-62

Repealed

(Repealed by P.L.99-2007, SEC.224.)

IC 12-7-2-63

Repealed

(Repealed by P.L.272-1999, SEC.66.)

IC 12-7-2-64

Director

Sec. 64. "Director" refers to the following:

(1) With respect to a particular division, the director of the division.

(2) With respect to a particular state institution, the director who has administrative control of and responsibility for the state institution.

(3) For purposes of IC 12-8-12.5, the term refers to the director

of the division of family resources.
(4) For purposes of IC 12-10-15, the term refers to the director of the division of aging.
(5) For purposes of IC 12-25, the term refers to the director of the division of mental health and addiction.
(6) For purposes of IC 12-26, the term:
(A) refers to the director who has administrative control of and responsibility for the appropriate state institution; and
(B) includes the director's designee.
(7) If subdivisions (1) through (6) do not apply, the term refers to the director of any of the divisions.
As added by P.L.2-1992, SEC.1. Amended by P.L.73-1998, SEC.1; P.L.215-2001, SEC.25; P.L.2-2005, SEC.45; P.L.234-2005, SEC.13; P.L.141-2006, SEC.16; P.L.145-2006, SEC.47; P.L.1-2007, SEC.107; P.L.146-2008, SEC.379; P.L.110-2010, SEC.17.

IC 12-7-2-65
Repealed
(Repealed by P.L.99-2007, SEC.224.)

IC 12-7-2-66
Repealed
(Repealed by P.L.99-2007, SEC.224.)

IC 12-7-2-67
Discharge
Sec. 67. "Discharge", for purposes of IC 12-26, means the final and complete release of an individual with a mental illness from the care, treatment, training, or detention at a facility to which the individual was committed or entered voluntarily for mental illness.
As added by P.L.2-1992, SEC.1. Amended by P.L.99-2007, SEC.42.

IC 12-7-2-67.5
Dispense
Sec. 67.5. "Dispense", for purposes of IC 12-23-18-8, has the meaning set forth in IC 12-23-18-8(a).
As added by P.L.131-2014, SEC.1.

IC 12-7-2-68
Distressed township
Sec. 68. "Distressed township", for purposes of IC 12-20-25, has the meaning set forth in IC 12-20-25-4.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-69
Division
Sec. 69. (a) "Division", except as provided in subsections (b) and (c), refers to any of the following:
(1) The division of disability and rehabilitative services established by IC 12-9-1-1.

(2) The division of aging established by IC 12-9.1-1-1.

(3) The division of family resources established by IC 12-13-1-1.

(4) The division of mental health and addiction established by IC 12-21-1-1.

(b) The term refers to the following:

(1) For purposes of the following statutes, the division of disability and rehabilitative services established by IC 12-9-1-1:

(A) IC 12-9.
(B) IC 12-11.
(C) IC 12-12.
(D) IC 12-12.5.
(E) IC 12-12.7.
(F) IC 12-15-46-2.
(G) IC 12-28-5.

(2) For purposes of the following statutes, the division of aging established by IC 12-9.1-1-1:

(A) IC 12-9.1.
(B) IC 12-10.
(C) IC 12-10.5.

(3) For purposes of the following statutes, the division of family resources established by IC 12-13-1-1:

(A) IC 12-13.
(B) IC 12-14.
(C) IC 12-15.
(D) IC 12-16.
(E) IC 12-17.2.
(F) IC 12-18.
(G) IC 12-19.
(H) IC 12-20.

(4) For purposes of the following statutes, the division of mental health and addiction established by IC 12-21-1-1:

(A) IC 12-21.
(B) IC 12-22.
(C) IC 12-23.
(D) IC 12-25.

(c) With respect to a particular state institution, the term refers to the division whose director has administrative control of and responsibility for the state institution.

(d) For purposes of IC 12-24, IC 12-26, and IC 12-27, the term refers to the division whose director has administrative control of and responsibility for the appropriate state institution.

As added by P.L.2-1992, SEC.1. Amended by P.L.20-1992, SEC.15; P.L.81-1992, SEC.15; P.L.1-1993, SEC.82; P.L.4-1993, SEC.23; P.L.5-1993, SEC.36; P.L.1-1994, SEC.50; P.L.40-1994, SEC.12; P.L.215-2001, SEC.26; P.L.283-2001, SEC.10; P.L.1-2002, SEC.50; P.L.255-2003, SEC.9; P.L.243-2003, SEC.2; P.L.234-2005, SEC.14; P.L.93-2006, SEC.5; P.L.141-2006, SEC.17; P.L.1-2007, SEC.108; P.L.229-2011, SEC.108; P.L.6-2012, SEC.82; P.L.13-2013, SEC.43.

IC 12-7-2-69.5
Domestic violence
Sec. 69.5. "Domestic violence", for purposes of IC 12-18-8, has the meaning set forth in IC 34-6-2-34.5.
As added by P.L.181-2003, SEC.2.

IC 12-7-2-70
Repealed
(Repealed by P.L.130-2009, SEC.28.)

IC 12-7-2-71
Drug
Sec. 71. "Drug", for purposes of IC 12-23, means a drug or a controlled substance (as defined in IC 35-48-1).
As added by P.L.2-1992, SEC.1.

IC 12-7-2-72
Drug abuse
Sec. 72. "Drug abuse", for purposes of IC 12-23, means:
(1) psychological or physical dependence on the effect of drugs or harmful substances; or
(2) abuse of the use of drugs or harmful substances;
that is harmful to the individual or society.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-73
Drug abuser
Sec. 73. "Drug abuser", for purposes of IC 12-23, means an individual who:
(1) has developed a psychological or physical dependence on the effects of drugs or harmful substances; or
(2) abuses the use of drugs or harmful substances;
so that the individual or society is harmed.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-73.2
Drug-disease contraindication
Sec. 73.2. "Drug-disease contraindication", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-6.
As added by P.L.75-1992, SEC.6.

IC 12-7-2-73.4
Drug-drug interaction
Sec. 73.4. "Drug-drug interaction", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-7.
As added by P.L.75-1992, SEC.7.

IC 12-7-2-73.5
Repealed
(Repealed by P.L.108-2010, SEC.10.)

IC 12-7-2-73.6
Drug utilitization review or DUR

Sec. 73.6. "Drug utilitization review" or "DUR", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-8.
As added by P.L.75-1992, SEC.8.

IC 12-7-2-74
Early intervention services

Sec. 74. "Early intervention services", for purposes of IC 12-12.7-2, has the meaning set forth in IC 12-12.7-2-3.
As added by P.L.2-1992, SEC.1. Amended by P.L.21-1992, SEC.5; P.L.93-2006, SEC.6.

IC 12-7-2-74.3
EBT card

Sec. 74.3. "EBT card", for purposes of IC 12-13-14-15, has the meaning set forth in IC 12-13-14-15(a).
As added by P.L.197-2013, SEC.4.

IC 12-7-2-74.5
EBT program

Sec. 74.5. "EBT program", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.
As added by P.L.2-1997, SEC.31.

IC 12-7-2-75
Repealed

(Repealed by P.L.181-2006, SEC.62.)

IC 12-7-2-75.7
Eligible child

Sec. 75.7. "Eligible child", for purposes of IC 12-17.2-3.6, has the meaning set forth in IC 12-17.2-3.6-2.
As added by P.L.205-2013, SEC.173. Amended by P.L.2-2014, SEC.57.

IC 12-7-2-76
Eligible individual

Sec. 76. (a) "Eligible individual", for purposes of:

(1) IC 12-10-10, has the meaning set forth in IC 12-10-10-4; and
(2) IC 12-10-10.5, has the meaning set forth in IC 12-10-10.5-3.

(b) "Eligible individual" has the meaning set forth in IC 12-14-18-1.5 for purposes of the following:

(1) IC 12-10-6.
(2) IC 12-14-2.
(3) IC 12-14-18.
(4) IC 12-14-19.
(5) IC 12-15-2.
(6) IC 12-15-3.

(7) IC 12-16-3.5.
(8) IC 12-20-5.5.

As added by P.L.2-1992, SEC.1. Amended by P.L.128-1999, SEC.4; P.L.283-2001, SEC.11; P.L.120-2002, SEC.8; P.L.97-2004, SEC.47; P.L.145-2006, SEC.48; P.L.145-2014, SEC.3.

IC 12-7-2-76.2
Eligible provider

Sec. 76.2. "Eligible provider", for purposes of IC 12-17.2-3.6, has the meaning set forth in IC 12-17.2-3.6-3.

As added by P.L.205-2013, SEC.174. Amended by P.L.2-2014, SEC.58.

IC 12-7-2-76.3
Eligible services

Sec. 76.3. "Eligible services", for purposes of IC 12-17.2-3.6, has the meaning set forth in IC 12-17.2-3.6-4.

As added by P.L.205-2013, SEC.175. Amended by P.L.2-2014, SEC.59.

IC 12-7-2-76.5
Emergency

Sec. 76.5. (a) "Emergency", for purposes of IC 12-20, means an unpredictable circumstance or a series of unpredictable circumstances that:

(1) place the health or safety of a household or a member of a household in jeopardy; and
(2) cannot be remedied in a timely manner by means other than township assistance.

(b) "Emergency", for purposes of IC 12-17.6, has the meaning set forth in IC 12-17.6-1-2.6.

As added by P.L.51-1996, SEC.6. Amended by P.L.95-2000, SEC.1; P.L.283-2001, SEC.12; P.L.255-2003, SEC.10.

IC 12-7-2-76.6
Emergency medical condition

Sec. 76.6. "Emergency medical condition", for purposes of IC 12-15-12, has the meaning set forth in IC 12-15-12-0.3.

As added by P.L.223-2001, SEC.1.

IC 12-7-2-76.7
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-76.8
Employed; employee; employment; employs

Sec. 76.8. "Employed", "employee", "employment", or "employs", for purposes of IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-3.5-1.3.

As added by P.L.18-2003, SEC.3.

IC 12-7-2-76.9
Emergency services

Sec. 76.9. "Emergency services", for purposes of IC 12-15-12, has the meaning set forth in IC 12-15-12-0.5.
As added by P.L.223-2001, SEC.2.

IC 12-7-2-77
Endangered adult

Sec. 77. "Endangered adult", for purposes of IC 12-10-3, has the meaning set forth in IC 12-10-3-2.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-77.2
"Enforcement action"

Sec. 77.2. "Enforcement action", for purposes of IC 12-17.2, refers to the following:

(1) Revocation or decertification of eligibility for a voucher payment under IC 12-17.2-3.5.

(2) Denial, suspension, or revocation of a license under IC 12-17.2-4 or IC 12-17.2-5.

As added by P.L.225-2013, SEC.2.

IC 12-7-2-77.5
Estate

Sec. 77.5. "Estate", for purposes of IC 12-15-9, has the meaning set forth in IC 12-15-9-0.5.
As added by P.L.152-1995, SEC.1.

IC 12-7-2-78
Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-7-2-78.5
Essential person

Sec. 78.5. "Essential person", for purposes of IC 12-14, has the meaning set forth in IC 12-14-2-0.5.
As added by P.L.46-1995, SEC.3.

IC 12-7-2-79
Executive authority

Sec. 79. "Executive authority", for purposes of IC 12-28-3, has the meaning set forth in IC 12-28-3-3.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-80
Repealed

(Repealed by P.L.20-1992, SEC.47.)

IC 12-7-2-81
Expenses and obligations

Sec. 81. (a) "Expenses and obligations", for purposes of the statutes listed in subsection (b), refer to expenses, obligations, assistance, and claims:

(1) of a county office;

(2) incurred in the administration of the welfare services of the county;

(3) incurred as provided by law; and

(4) for:

(A) assistance for aged persons in need;

(B) assistance to dependent children; and

(C) other assistance or services that a county office is authorized by law to allow.

(b) This section applies to the following statutes:

(1) IC 12-13.

(2) IC 12-14.

(3) IC 12-15.

(4) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.4-1993, SEC.24; P.L.5-1993, SEC.37; P.L.145-2006, SEC.49.

IC 12-7-2-82

Facility

Sec. 82. "Facility" means the following:

(1) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-3.

(2) For purposes of IC 12-17-13, the meaning set forth in IC 12-17-13-2.

(3) For purposes of IC 12-26, a hospital, a health and hospital corporation established under IC 16-22-8, a psychiatric hospital, a community mental health center, another institution, a program, a managed care provider, or a child caring institution:

(A) where an individual with a mental illness can receive rehabilitative treatment, or habilitation and care, in the least restrictive environment suitable for the necessary care, treatment, and protection of the individual and others; and

(B) that has adequate space and treatment staff appropriate to the needs of the individual as determined by the superintendent of the facility.

The term includes all services, programs, and centers of the facility, wherever located.

(4) For purposes of IC 12-15-32, the meaning set forth in IC 12-15-32-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.62-1993, SEC.2; P.L.40-1994, SEC.13; P.L.99-2007, SEC.43; P.L.194-2007, SEC.2.

IC 12-7-2-82.2

Family or household member

Sec. 82.2. "Family or household member", for purposes of IC 12-18-8, has the meaning set forth in IC 12-18-8-3.

As added by P.L.181-2003, SEC.3.

IC 12-7-2-82.3
Repealed
(Repealed by P.L.138-2007, SEC.93.)

IC 12-7-2-82.4
Family planning services
Sec. 82.4. "Family planning services", for purposes of IC 12-15-46-1, has the meaning set forth in IC 12-15-46-1(a).
As added by P.L.160-2011, SEC.2. Amended by P.L.6-2012, SEC.83.

IC 12-7-2-82.5
Family support program
Sec. 82.5. "Family support program", for purposes of IC 12-8-14, has the meaning set forth in IC 12-8-14-1.
As added by P.L.137-1993, SEC.1. Amended by P.L.272-1999, SEC.17.

IC 12-7-2-82.7
Federal act
Sec. 82.7. "Federal act", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.2.
As added by P.L.217-2005, SEC.3.

IC 12-7-2-83
Federal department
Sec. 83. "Federal department", for purposes of IC 12-26-9, has the meaning set forth in IC 12-26-9-1.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-84
Federal facility
Sec. 84. "Federal facility", for purposes of IC 12-26-9, has the meaning set forth in IC 12-26-9-2.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-85
Federal income poverty level
Sec. 85. "Federal income poverty level", for purposes of IC 12-15-2, has the meaning set forth in IC 12-15-2-1.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-85.1
Fertilization
Sec. 85.1. "Fertilization", for purposes of IC 12-15-46-1, has the meaning set forth in IC 12-15-46-1(b).
As added by P.L.160-2011, SEC.3. Amended by P.L.6-2012, SEC.84.

IC 12-7-2-85.2
Final judgment
Sec. 85.2. "Final judgment", for purposes of IC 12-18-8, has the

meaning set forth in IC 12-18-8-4.
As added by P.L.181-2003, SEC.4.

IC 12-7-2-85.3
Financial institution
Sec. 85.3. "Financial institution", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.
As added by P.L.257-1997(ss), SEC.3. Amended by P.L.145-2006, SEC.50.

IC 12-7-2-85.4
Federal public benefit
Sec. 85.4. "Federal public benefit", for purposes of IC 12-32-1, has the meaning set forth in IC 12-32-1-2.
As added by P.L.171-2011, SEC.10.

IC 12-7-2-85.5
Repealed
(Repealed by P.L.108-1997, SEC.10.)

IC 12-7-2-86
Fiscal body
Sec. 86. "Fiscal body", for purposes of IC 12-20, has the meaning set forth in IC 36-1-2-6.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-87
Flight or fled
Sec. 87. "Flight" or "fled", for purposes of IC 12-28-3, has the meaning set forth in IC 12-28-3-1.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-87.8
Food retailer
Sec. 87.8. "Food retailer", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.
As added by P.L.257-1997(ss), SEC.4.

IC 12-7-2-88
Forcible felony
Sec. 88. "Forcible felony", for purposes of IC 12-23, has the meaning set forth in IC 35-31.5-2-138.
As added by P.L.2-1992, SEC.1. Amended by P.L.114-2012, SEC.30.

IC 12-7-2-89
Foster care
Sec. 89. (a) "Foster care", for purposes of the statutes listed in subsection (b), means living in a place licensed under IC 31-27.
(b) This section applies to the following statutes:
(1) IC 12-13.

(2) IC 12-14.
(3) IC 12-15.
(4) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.81-1992, SEC.16; P.L.1-1993, SEC.83; P.L.145-2006, SEC.51.

IC 12-7-2-90
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-91
Fund

Sec. 91. "Fund" means the following:

(1) For purposes of IC 12-12-1-9, the fund described in IC 12-12-1-9.
(2) For purposes of IC 12-15-20, the meaning set forth in IC 12-15-20-1.
(3) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-4.
(4) For purposes of IC 12-17.2-3.6, the meaning set forth in IC 12-17.2-3.6-5.
(5) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-3.
(6) For purposes of IC 12-23-2, the meaning set forth in IC 12-23-2-1.
(7) For purposes of IC 12-23-18, the meaning set forth in IC 12-23-18-4.
(8) For purposes of IC 12-24-6, the meaning set forth in IC 12-24-6-1.
(9) For purposes of IC 12-24-14, the meaning set forth in IC 12-24-14-1.
(10) For purposes of IC 12-30-7, the meaning set forth in IC 12-30-7-3.

As added by P.L.2-1992, SEC.1. Amended by P.L.36-1994, SEC.12; P.L.91-1996, SEC.3; P.L.273-1999, SEC.164; P.L.273-1999, SEC.60; P.L.14-2000, SEC.27; P.L.11-2003, SEC.1; P.L.146-2008, SEC.380; P.L.130-2009, SEC.16; P.L.205-2013, SEC.176; P.L.2-2014, SEC.60.

IC 12-7-2-91.4
Gatekeeper

Sec. 91.4. "Gatekeeper", for purposes of IC 12-24, IC 12-25, and IC 12-26, means an entity identified in IC 12-24-12-10 that is actively involved in the evaluation and planning of and treatment for a committed individual beginning after the commitment through the planning of the individual's transition back into the community, including case management services for the individual in the community.

As added by P.L.6-1995, SEC.3. Amended by P.L.108-1996, SEC.1.

IC 12-7-2-92
Governmental entity
Sec. 92. "Governmental entity", for purposes of IC 12-10-3, has the meaning set forth in IC 12-10-3-3.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-93
Governor
Sec. 93. "Governor", for purposes of IC 12-28-3, has the meaning set forth in IC 12-28-3-3.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-93.7
Grant
Sec. 93.7. "Grant", for purposes of IC 12-17.2-3.6, has the meaning set forth in IC 12-17.2-3.6-6.
As added by P.L.205-2013, SEC.177. Amended by P.L.2-2014, SEC.61.

IC 12-7-2-94
Grantee agency
Sec. 94. "Grantee agency", for purposes of IC 12-8-10, has the meaning set forth in IC 12-8-10-2.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-95
Grant-in-aid
Sec. 95. (a) "Grant-in-aid", for purposes of the statutes listed in subsection (b), means any money paid by the federal government to the state or any money paid by the state to a county for the purpose of defraying any of the expenses, claims, allowances, assistance, or obligations authorized by this title.
(b) This section applies to the following statutes:
(1) IC 12-13.
(2) IC 12-14.
(3) IC 12-15.
(4) IC 12-19.
As added by P.L.2-1992, SEC.1. Amended by P.L.145-2006, SEC.52.

IC 12-7-2-96
Gravely disabled
Sec. 96. "Gravely disabled", for purposes of IC 12-26, means a condition in which an individual, as a result of mental illness, is in danger of coming to harm because the individual:
(1) is unable to provide for that individual's food, clothing, shelter, or other essential human needs; or
(2) has a substantial impairment or an obvious deterioration of that individual's judgment, reasoning, or behavior that results in the individual's inability to function independently.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-97
Repealed
(Repealed by P.L.27-1992, SEC.30.)

IC 12-7-2-98
Group
Sec. 98. "Group", for purposes of IC 12-8-10, has the meaning set forth in IC 12-8-10-3.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-98.2
"Group size"
Sec. 98.2. "Group size", for purposes of IC 12-17.2-3.5, means the number of children who routinely work, learn, eat, sleep, and play together inside and outside a facility where a provider operates a child care program.
As added by P.L.171-2014, SEC.1.

IC 12-7-2-98.5
Repealed
(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-99
A person with a disability
Sec. 99. "A person with a disability" means, for purposes of the following statutes, an individual who has a physical or mental disability and meets the program eligibility requirements of the division of disability and rehabilitative services:
(1) IC 12-8-1.5-10.
(2) IC 12-12-1.
(3) IC 12-12-6.
As added by P.L.2-1992, SEC.1. Amended by P.L.138-1993, SEC.1; P.L.23-1993, SEC.38; P.L.4-1993, SEC.25; P.L.5-1993, SEC.38; P.L.272-1999, SEC.18; P.L.141-2006, SEC.18; P.L.160-2012, SEC.9.

IC 12-7-2-100
Repealed
(Repealed by P.L.21-1992, SEC.16.)

IC 12-7-2-101
Harmful substance
Sec. 101. "Harmful substance", for purposes of IC 12-23, means any substance used by an individual to produce the effect of a controlled substance, although the substance is not classified as a controlled substance under IC 35-48.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-102
Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-7-2-103
Health facility

Sec. 103. "Health facility" means the following:

(1) For purposes of IC 12-10-5.5, the meaning set forth in IC 12-10-5.5-2.

(2) For purposes of IC 12-10-12, the meaning set forth in IC 12-10-12-3.

As added by P.L.2-1992, SEC.1. Amended by P.L.139-1993, SEC.1; P.L.106-1997, SEC.2.

IC 12-7-2-103.3
Health maintenance organization

Sec. 103.3. "Health maintenance organization", for purposes of IC 12-15-39.6, has the meaning set forth in IC 27-13-1-19.

As added by P.L.97-2004, SEC.48.

IC 12-7-2-103.5
Health related services

Sec. 103.5. "Health related services":

(1) for purposes of IC 12-10-15, has the meaning set forth in IC 12-10-15-2; and

(2) for purposes of IC 12-10-17.1, has the meaning set forth in IC 12-10-17.1-5.

As added by P.L.73-1998, SEC.2. Amended by P.L.255-2001, SEC.4; P.L.141-2006, SEC.19.

IC 12-7-2-104
Repealed

(Repealed by P.L.1-2007, SEC.248.)

IC 12-7-2-104.5
Holocaust victim's settlement payment

Sec. 104.5. "Holocaust victim's settlement payment" has the meaning set forth in IC 12-14-18-1.7 for purposes of the following:

(1) IC 12-10-6.

(2) IC 12-14-2.

(3) IC 12-14-18.

(4) IC 12-14-19.

(5) IC 12-15-2.

(6) IC 12-15-3.

(7) IC 12-16-3.5.

(8) IC 12-20-5.5.

As added by P.L.128-1999, SEC.5. Amended by P.L.283-2001, SEC.13; P.L.120-2002, SEC.9; P.L.97-2004, SEC.49; P.L.145-2006, SEC.53.

IC 12-7-2-105
Home care services

Sec. 105. "Home care services", for purposes of IC 12-10-13, has the meaning set forth in IC 12-10-13-3.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-106
Repealed
(Repealed by P.L.181-2006, SEC.62.)

IC 12-7-2-107
Repealed
(Repealed by P.L.181-2006, SEC.62.)

IC 12-7-2-108
Home health agency
Sec. 108. "Home health agency", for purposes of IC 12-15-34, has the meaning set forth in IC 12-15-34-1.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-109
Home health services
Sec. 109. "Home health services", for purposes of IC 12-15-34, has the meaning set forth in IC 12-15-34-2.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-109.5
Hospice
Sec. 109.5. "Hospice", for purposes of IC 12-15-40, has the meaning set forth in IC 12-15-40-2.
As added by P.L.24-1997, SEC.8.

IC 12-7-2-109.6
Hospice program
Sec. 109.6. "Hospice program", for purposes of IC 12-15-40, has the meaning set forth in IC 12-15-40-3.
As added by P.L.24-1997, SEC.9.

IC 12-7-2-109.7
Hospice program patient
Sec. 109.7. "Hospice program patient", for purposes of IC 12-15-40, has the meaning set forth in IC 12-15-40-4.
As added by P.L.24-1997, SEC.10.

IC 12-7-2-109.8
Hospice services
Sec. 109.8. "Hospice services", for purposes of IC 12-15-5 and IC 12-15-40, has the meaning set forth in IC 12-15-40-5.
As added by P.L.24-1997, SEC.11.

IC 12-7-2-110
Hospital

Sec. 110. "Hospital" means the following:

(1) For purposes of IC 12-15-11.5, the meaning set forth in IC 12-15-11.5-1.

(2) For purposes of IC 12-15-18, the meaning set forth in IC 12-15-18-2.

(3) For purposes of IC 12-16, except IC 12-16-1, the term refers to a hospital licensed under IC 16-21.

As added by P.L.2-1992, SEC.1. Amended by P.L.2-1993, SEC.75; P.L.142-2000, SEC.1; P.L.283-2001, SEC.14; P.L.120-2002, SEC.10; P.L.255-2003, SEC.11.

IC 12-7-2-110.5
Household

Sec. 110.5. "Household", for purposes of IC 12-20, means any of the following:

(1) An individual living alone.

(2) A family related by blood.

(3) A group of individuals living together at one (1) residence as a domestic unit with mutual economic dependency.

As added by P.L.51-1996, SEC.7.

IC 12-7-2-110.7
Housing with services establishment

Sec. 110.7. "Housing with services establishment", for purposes of IC 12-10-15, has the meaning set forth in IC 12-10-15-3.

As added by P.L.73-1998, SEC.3.

IC 12-7-2-111
Immediate family

Sec. 111. (a) "Immediate family", for purposes of the statutes listed in subsection (b), means the following:

(1) If a Medicaid applicant is married, the applicant's spouse and dependent children less than twenty-one (21) years of age.

(2) If a Medicaid applicant is not married, the following:

(A) If the applicant is divorced, the parent having custody.

(B) If the applicant is less than twenty-one (21) years of age:

(I) the parent having custody; and

(ii) the dependent children less than twenty-one (21) years of age of the parent or parents.

(C) If clauses (A) and (B) do not apply, the applicant's parents.

(b) This section applies to the following statutes:

(1) IC 12-14-1 through IC 12-14-9.5.

(2) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

As added by P.L.2-1992, SEC.1. Amended by P.L.273-1999, SEC.75.

IC 12-7-2-112
Incapacitated

Sec. 112. "Incapacitated", for purposes of IC 12-23, means having

been judged incapacitated under IC 29-3 by a court.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-113
Incapacitated by alcohol
Sec. 113. "Incapacitated by alcohol", for purposes of IC 12-23, means that an individual, as the result of the use of alcohol, has the individual's judgment impaired and is incapable of realizing and making a rational decision with respect to the individual's need for treatment.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-114
Incapacitated individual
Sec. 114. "Incapacitated individual", for purposes of IC 12-10-7, has the meaning set forth in IC 12-10-7-1.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-115
Indebtedness
Sec. 115. "Indebtedness", for purposes of IC 12-20-25, has the meaning set forth in IC 12-20-25-5.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-116
Indigent adult
Sec. 116. "Indigent adult", for purposes of IC 12-10-7, has the meaning set forth in IC 12-10-7-2.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-117
Repealed
(Repealed by P.L.146-2008, SEC.804.)

IC 12-7-2-117.1
Individual in need of self-directed in-home care
Sec. 117.1. "Individual in need of self-directed in-home care", for purposes of IC 12-10-17.1, has the meaning set forth in IC 12-10-17.1-6.
As added by P.L.255-2001, SEC.5. Amended by P.L.141-2006, SEC.20.

IC 12-7-2-117.2
Repealed
(Repealed by P.L.272-1999, SEC.66.)

IC 12-7-2-117.3
Individual with a disability; individual with a significant disability
Sec. 117.3. (a) "Individual with a disability", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.4.

(b) "Individual with a disability", for purposes of IC 12-10-10, has the meaning set forth in IC 12-10-10-3.

(c) "Individual with a significant disability", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.6.

As added by P.L.217-2005, SEC.4. Amended by P.L.99-2007, SEC.44.

IC 12-7-2-117.4
Repealed

(Repealed by P.L.99-2007, SEC.224.)

IC 12-7-2-117.6
Individual with a mental illness

Sec. 117.6. "Individual with a mental illness", for purposes of IC 12-21-2 and IC 12-24-17, means an individual who:

(1) has a psychiatric disorder that substantially impairs the individual's mental health; and

(2) requires care, treatment, training, or detention:

(A) because of the psychiatric disorder; or

(B) for the welfare of the individual or others of the community in which the individual resides.

As added by P.L.99-2007, SEC.45. Amended by P.L.143-2011, SEC.6.

IC 12-7-2-117.8
Infants and toddlers with disabilities

Sec. 117.8. "Infants and toddlers with disabilities", for purposes of IC 12-12.7-2, has the meaning set forth in IC 12-12.7-2-4.

As added by P.L.99-2007, SEC.46.

IC 12-7-2-118
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-7-2-118.3
Repealed

(Repealed by P.L.138-2014, SEC.1.)

IC 12-7-2-118.5
Repealed

(Repealed by P.L.1-2010, SEC.156.)

IC 12-7-2-118.8
Institution

Sec. 118.8. "Institution", for purposes of IC 12-10-11.5, has the meaning set forth in IC 12-10-11.5-1.

As added by P.L.274-2003, SEC.3.

IC 12-7-2-119
Institution for the mentally diseased

Sec. 119. "Institution for the mentally diseased", for purposes of IC 12-15-2-9, has the meaning set forth in IC 12-15-2-9.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-119.5
"Institutional provider"
Sec. 119.5. "Institutional provider", for purposes of IC 12-15-13-4, has the meaning set forth in IC 12-15-13-4(a).
As added by P.L.229-2011, SEC.109.

IC 12-7-2-120
Insurer
Sec. 120. (a) "Insurer", for purposes of the statutes listed in subsection (b), means an insurance company, a health maintenance organization (as defined in IC 27-13-1-19), a self-funded employee benefit plan, a pension fund, a retirement system, or a similar entity that:
(1) does business in Indiana; and
(2) is under an obligation to make payments for medical services as a result of injury, illness, or disease suffered by an individual.
(b) This section applies to the following statutes:
(1) IC 12-14-1 through IC 12-14-9.5.
(2) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.
As added by P.L.2-1992, SEC.1. Amended by P.L.26-1994, SEC.2; P.L.273-1999, SEC.76.

IC 12-7-2-120.5
Interim period
Sec. 120.5. "Interim period", for purposes of IC 12-20-27, has the meaning set forth in IC 12-20-27-1.5.
As added by P.L.51-1996, SEC.8.

IC 12-7-2-121
Repealed
(Repealed by P.L.1-1993, SEC.86.)

IC 12-7-2-121.5
Intervention
Sec. 121.5. "Intervention", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-9.
As added by P.L.75-1992, SEC.9.

IC 12-7-2-122
Intoxicated
Sec. 122. "Intoxicated", for purposes of IC 12-23, means the state of an individual in which the individual's mental or physical functioning is substantially impaired as a result of the use of alcohol, drugs, or harmful substances.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-122.3
Knew or know

Sec. 122.3. "Knew" or "know", for purposes of IC 12-15-23, means that a person, regarding information:

(1) has actual knowledge of information;

(2) acts in deliberate ignorance of the truth or falsity of the information; or

(3) acts in reckless disregard of the truth or falsity of the information.

As added by P.L.79-2007, SEC.2.

IC 12-7-2-122.5
Legal representative

Sec. 122.5. "Legal representative", for purposes of IC 12-10-13, has the meaning set forth in IC 12-10-13-3.3.

As added by P.L.139-1993, SEC.2.

IC 12-7-2-122.9
Licensed health professional

Sec. 122.9. "Licensed health professional", for purposes of IC 12-10-17.1, has the meaning set forth in IC 12-10-17.1-7.

As added by P.L.255-2001, SEC.6. Amended by P.L.141-2006, SEC.21.

IC 12-7-2-123
Repealed

(Repealed by P.L.20-1992, SEC.47.)

IC 12-7-2-123.2
Licensee

Sec. 123.2. "Licensee", for the purposes of IC 12-17.2, means a person who holds a valid license issued under IC 12-17.2.

As added by P.L.20-1992, SEC.18; P.L.81-1992, SEC.19. Amended by P.L.1-1993, SEC.87; P.L.145-2006, SEC.54.

IC 12-7-2-124
Life threatening emergency

Sec. 124. "Life threatening emergency", for purposes of IC 12-10-3, has the meaning set forth in IC 12-10-3-4.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-124.5
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-124.6
Repealed

(Repealed by P.L.44-2009, SEC.36.)

IC 12-7-2-124.7
Local domestic violence fatality review team
Sec. 124.7. "Local domestic violence fatality review team", for purposes of IC 12-18-8, has the meaning set forth in IC 12-18-8-5.
As added by P.L.181-2003, SEC.5.

IC 12-7-2-124.8
Repealed
(Repealed by P.L.44-2009, SEC.36.)

IC 12-7-2-125
Long term care
Sec. 125. "Long term care", for purposes of IC 12-15-39.6, has the meaning set forth in IC 12-15-39.6-1.
As added by P.L.2-1992, SEC.1. Amended by P.L.24-1997, SEC.12.

IC 12-7-2-125.5
Long term care facility
Sec. 125.5. (a) "Long term care facility", for purposes of IC 12-15-39.6, has the meaning set forth in IC 12-15-39.6-2.
(b) "Long term care facility", for purposes of IC 12-10-13, has the meaning set forth in IC 12-10-13-3.6.
As added by P.L.139-1993, SEC.3. Amended by P.L.75-1994, SEC.1; P.L.24-1997, SEC.13.

IC 12-7-2-126
Long term care insurance
Sec. 126. "Long term care insurance", for purposes of IC 12-15-39.6, has the meaning set forth in IC 12-15-39.6-3.
As added by P.L.2-1992, SEC.1. Amended by P.L.24-1997, SEC.14.

IC 12-7-2-126.1
Repealed
(Repealed by P.L.28-2012, SEC.2.)

IC 12-7-2-126.3
Long term care services eligibility screen
Sec. 126.3. "Long term care services eligibility screen", for purposes of IC 12-10-10, has the meaning set forth in IC 12-10-10-4.5.
As added by P.L.150-1995, SEC.3.

IC 12-7-2-126.5
Low income utilization rate
Sec. 126.5. "Low income utilization rate", for purposes of IC 12-15-16-6, has the meaning set forth in IC 12-15-16-6(a).
As added by P.L.277-1993(ss), SEC.68.

IC 12-7-2-127

Managed care provider

Sec. 127. "Managed care provider", for purposes of IC 12-14-1 through IC 12-14-9.5 and IC 12-15 (except IC 12-15-21, IC 12-15-33, and IC 12-15-34) means either of the following:

(1) A physician licensed under IC 25-22.5 who:

(A) is primarily engaged in general practice, family practice, internal medicine, pediatric medicine, or obstetrics and gynecology; and

(B) has entered into a provider agreement for the provision of physician services under IC 12-15-11-4.

(2) A partnership, corporation, or other entity that:

(A) employs or contracts with physicians licensed under IC 25-22.5 who are primarily engaged in general practice, family practice, internal medicine, pediatric medicine, or obstetrics and gynecology; and

(B) has entered into a provider agreement for the provision of physician services under IC 12-15-11-4.

As added by P.L.2-1992, SEC.1. Amended by P.L.40-1994, SEC.15; P.L.6-1995, SEC.4; P.L.273-1999, SEC.77; P.L.215-2001, SEC.27; P.L.143-2011, SEC.7.

IC 12-7-2-127.5

Medicaid inpatient utilization rate

Sec. 127.5. "Medicaid inpatient utilization rate", for purposes of IC 12-15-16-6, has the meaning set forth in IC 12-15-16-6(b).

As added by P.L.277-1993(ss), SEC.69.

IC 12-7-2-128

Medicaid program

Sec. 128. "Medicaid program" refers to the program established under IC 12-15.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-128.5

Medical institution

Sec. 128.5. "Medical institution", for purposes of IC 12-15-8.5, has the meaning set forth in IC 12-15-8.5-1.

As added by P.L.178-2002, SEC.79.

IC 12-7-2-129

Member

Sec. 129. "Member", for purposes of IC 12-8-2.5, has the meaning set forth in IC 12-8-2.5-2.

As added by P.L.2-1992, SEC.1. Amended by P.L.160-2012, SEC.10.

IC 12-7-2-129.2

Member of the applicant's household

Sec. 129.2. "Member of the applicant's household", for purposes of IC 12-20-6-0.5, has the meaning set forth in IC 12-20-6-0.5.

As added by P.L.2-1996, SEC.231.

IC 12-7-2-129.5
Repealed
(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-130
Mental illness
Sec. 130. "Mental illness" means the following:
(1) For purposes of IC 12-23-5, IC 12-24, and IC 12-26, a psychiatric disorder that:
(A) substantially disturbs an individual's thinking, feeling, or behavior; and
(B) impairs the individual's ability to function.
The term includes mental retardation, alcoholism, and addiction to narcotics or dangerous drugs.
(2) For purposes of IC 12-28-4 and IC 12-28-5, a psychiatric disorder that:
(A) substantially disturbs an individual's thinking, feeling, or behavior; and
(B) impairs the individual's ability to function.
The term does not include developmental disability.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-131
Repealed
(Repealed by P.L.99-2007, SEC.224.)

IC 12-7-2-131.3
Missing endangered adult
Sec. 131.3. "Missing endangered adult", for purposes of IC 12-10-18, means an individual at least eighteen (18) years of age who is reported missing to a law enforcement agency and is, or is believed to be:
(1) a temporary or permanent resident of Indiana;
(2) at a location that cannot be determined by an individual familiar with the missing individual; and
(3) incapable of returning to the missing individual's residence without assistance by reason of:
(A) mental illness;
(B) mental retardation;
(C) dementia; or
(D) another physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care.
As added by P.L.140-2005, SEC.1.

IC 12-7-2-131.5
Monitor
Sec. 131.5. "Monitor", for the purposes of IC 12-17.2, means observation to determine the licensee's continuing compliance with IC 12-17.2.

As added by P.L.20-1992, SEC.19; P.L.81-1992, SEC.20. Amended by P.L.1-1993, SEC.88; P.L.145-2006, SEC.55.

IC 12-7-2-131.8
National criminal history background check

Sec. 131.8. "National criminal history background check", for purposes of IC 12-17.2, has the meaning set forth in IC 10-13-3-12.
As added by P.L.287-2013, SEC.3.

IC 12-7-2-132
Repealed

(Repealed by P.L.272-1999, SEC.66.)

IC 12-7-2-132.2
"Noninstitutional provider"

Sec. 132.2. "Noninstitutional provider", for purposes of IC 12-15-13-3.5, has the meaning set forth in IC 12-15-13-3.5(a).
As added by P.L.229-2011, SEC.110.

IC 12-7-2-132.5
Repealed

(Repealed by P.L.138-2014, SEC.2.)

IC 12-7-2-133
Nursing facility

Sec. 133. "Nursing facility" has the meaning set forth in 42 U.S.C. 1396r(a).
As added by P.L.2-1992, SEC.1.

IC 12-7-2-133.5
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-134
Office

Sec. 134. "Office" means the following:

(1) Except as provided in subdivisions (2) through (4), the office of Medicaid policy and planning established by IC 12-8-6.5-1.

(2) For purposes of IC 12-10-13, the meaning set forth in IC 12-10-13-4.

(3) For purposes of IC 12-15-13, the meaning set forth in IC 12-15-13-0.4.

(4) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-4.

As added by P.L.2-1992, SEC.1. Amended by P.L.108-1997, SEC.1; P.L.58-1998, SEC.1; P.L.273-1999, SEC.165; P.L.283-2001, SEC.15; P.L.255-2003, SEC.12; P.L.117-2008, SEC.1; P.L.160-2012, SEC.11.

IC 12-7-2-135
Office of the secretary

Sec. 135. "Office of the secretary" refers to the office of the secretary of family and social services established by IC 12-8-1.5-1.
As added by P.L.2-1992, SEC.1. Amended by P.L.160-2012, SEC.12.

IC 12-7-2-135.3
Ombudsman

Sec. 135.3. "Ombudsman", for purposes of IC 12-10-13, has the meaning set forth in IC 12-10-13-4.5.
As added by P.L.139-1993, SEC.4.

IC 12-7-2-135.4
Operator

Sec. 135.4. "Operator", for purposes of IC 12-10-15, has the meaning set forth in IC 12-10-15-4.
As added by P.L.73-1998, SEC.4.

IC 12-7-2-135.5
Overutilization or under utilization

Sec. 135.5. "Overutilization or under utilization", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-10.
As added by P.L.75-1992, SEC.10.

IC 12-7-2-135.6
Opioid treatment program

Sec. 135.6. "Opioid treatment program" means a program through which opioid agonist medication is dispensed to an individual in the treatment of opiate addiction and for which certification is required under 42 CFR Part 8.
As added by P.L.116-2008, SEC.1.

IC 12-7-2-135.8
Paths to QUALITY program

Sec. 135.8. (a) "Paths to QUALITY program", for purposes of IC 12-17.2-2-14.2 and IC 12-17.2-3.6, refers to the program established in IC 12-17.2-2-14.2(b).

(b) "Paths to QUALITY program", for purposes of IC 12-17.2-3.8, has the meaning set forth in IC 12-17.2-3.8-1.
As added by P.L.205-2013, SEC.178 and P.L.267-2013, SEC.1. Amended by P.L.2-2014, SEC.62.

IC 12-7-2-136
Patient

Sec. 136. "Patient" means the following:

(1) For purposes of IC 12-24-1-4, an individual who is admitted to a state institution for observation, diagnosis, or treatment.

(2) For purposes of IC 12-24-7, the meaning set forth in IC 12-24-7-1.

(3) For purposes of IC 12-24-6, IC 12-24-13, IC 12-24-14, and

IC 12-24-15, an individual with a mental illness, an individual who appears to have a mental illness, or an individual with mental retardation who is:

(A) in or under the supervision and control of a state institution; or

(B) because of mental illness, under the supervision and control of a circuit, superior, or juvenile court.

(4) For purposes of IC 12-24-17, the meaning set forth in IC 12-24-17-2.

(5) For purposes of IC 12-27, an individual receiving mental health services or developmental training. The term includes a client of a service provider.

As added by P.L.2-1992, SEC.1. Amended by P.L.99-2007, SEC.47.

IC 12-7-2-136.5
Patient Protection and Affordable Care Act

Sec. 136.5. "Patient Protection and Affordable Care Act" refers to the federal Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), as amended from time to time, and regulations or guidance issued under those acts.

As added by P.L.160-2011, SEC.4.

IC 12-7-2-137
Person

Sec. 137. (a) "Person", except as provided in subsections (b) through (d), means an association, a corporation, a limited liability company, a governmental entity, an individual, or a partnership.

(b) "Person", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

(c) "Person", for purposes of IC 12-17.2, means an individual who is at least twenty-one (21) years of age, a corporation, a partnership, a voluntary association, or other entity.

(d) "Person", for purposes of IC 12-15-2-20, means an individual who is:

(1) at least twenty-one (21) years of age; and

(2) applying for or receiving Medicaid assistance.

As added by P.L.2-1992, SEC.1. Amended by P.L.20-1992, SEC.20; P.L.81-1992, SEC.21; P.L.1-1993, SEC.89; P.L.8-1993, SEC.181; P.L.257-1997(ss), SEC.5; P.L.145-2006, SEC.56; P.L.197-2013, SEC.5.

IC 12-7-2-137.3
Personal services attendant

Sec. 137.3. "Personal services attendant", for purposes of IC 12-10-17.1, has the meaning set forth in IC 12-10-17.1-8.

As added by P.L.255-2001, SEC.7. Amended by P.L.141-2006, SEC.22.

IC 12-7-2-137.7

Pharmacist

Sec. 137.7. "Pharmacist", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-11.

As added by P.L.75-1992, SEC.11.

IC 12-7-2-138

Physician

Sec. 138. "Physician" means the following:

(1) For purposes of IC 12-10-17.1 and IC 12-15-35, an individual who is licensed to practice medicine in Indiana under IC 25-22.5.

(2) For purposes of IC 12-26, either of the following:

(A) An individual who holds a license to practice medicine under IC 25-22.5.

(B) A medical officer of the United States government who is in Indiana performing the officer's official duties.

As added by P.L.2-1992, SEC.1. Amended by P.L.75-1992, SEC.12; P.L.255-2001, SEC.8; P.L.141-2006, SEC.23.

IC 12-7-2-139

Physician services

Sec. 139. "Physician services" means the following:

(1) For purposes of IC 12-15-11, the meaning set forth in IC 12-15-11-1.

(2) For purposes of IC 12-15-12, services provided by an individual licensed under IC 25-22.5 while engaged in the practice of medicine (as defined in IC 25-22.5-1-1.1(a)).

As added by P.L.2-1992, SEC.1.

IC 12-7-2-139.1

Repealed

(Repealed by P.L.273-1999, SEC.181.)

IC 12-7-2-140

Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-140.5

Plan

Sec. 140.5. "Plan", for purposes of IC 12-15-44.2, has the meaning set forth in IC 12-15-44.2-1.

As added by P.L.218-2007, SEC.7. Amended by P.L.3-2008, SEC.90.

IC 12-7-2-141

Planning authority

Sec. 141. "Planning authority", for purposes of IC 12-28-4, has the meaning set forth in IC 12-28-4-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-141.2

Repealed

(Repealed by P.L.128-2012, SEC.4.)

IC 12-7-2-142

Political subdivision

Sec. 142. "Political subdivision", for purposes of the following statutes, has the meaning set forth in IC 36-1-2-13:

(1) IC 12-8.

(2) IC 12-13-4.

(3) IC 12-32-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.171-2011, SEC.11.

IC 12-7-2-142.5

Point of sale terminal

Sec. 142.5. "Point of sale terminal", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

As added by P.L.257-1997(ss), SEC.6.

IC 12-7-2-142.7

Repealed

(Repealed by P.L.138-2014, SEC.3.)

IC 12-7-2-142.8

Post-stabilization care services

Sec. 142.8. "Post-stabilization care services", for purposes of IC 12-15-12, has the meaning set forth in IC 12-15-12-0.7.

As added by P.L.223-2001, SEC.3.

IC 12-7-2-143

Repealed

(Repealed by P.L.97-2004, SEC.133.)

IC 12-7-2-143.5

Preschool

Sec. 143.5. "Preschool", for purposes of IC 12-17.2, means a program that provides an educational experience through an age appropriate written curriculum for children at least thirty (30) months of age who are not eligible to enter kindergarten and that:

(1) conducts sessions for not more than four (4) hours a day;

(2) enrolls children for only one (1) session a day;

(3) does not serve meals on the premises;

(4) maintains a child to staff ratio of not more than fifteen (15) children to one (1) staff member;

(5) supervises children at all times with a person who is at least eighteen (18) years of age; and

(6) does not operate for more than ten (10) consecutive days.

As added by P.L.61-1993, SEC.5; P.L.136-1993, SEC.5. Amended by P.L.1-1994, SEC.51.

IC 12-7-2-144

Preschool child care program

Sec. 144. "Preschool child care program", for purposes of IC 12-17-13, has the meaning set forth in IC 12-17-13-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-144.3

Preventative care services

Sec. 144.3. "Preventative care services", for purposes of IC 12-15-44.2, has the meaning set forth in IC 12-15-44.2-2.

As added by P.L.218-2007, SEC.8. Amended by P.L.3-2008, SEC.91.

IC 12-7-2-144.7

Primary business

Sec. 144.7. "Primary business", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

As added by P.L.257-1997(ss), SEC.7.

IC 12-7-2-144.9

Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-145

Private psychiatric institution

Sec. 145. "Private psychiatric institution", for purposes of IC 12-15-18, has the meaning set forth in IC 12-15-18-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-146 Version a

Program

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 146. "Program" refers to the following:

(1) For purposes of IC 12-8-12.5, the meaning set forth in IC 12-8-12.5-1.

(2) For purposes of IC 12-10-7, the adult guardianship services program established by IC 12-10-7-5.

(3) For purposes of IC 12-10-10, the meaning set forth in IC 12-10-10-5.

(4) For purposes of IC 12-17.2-2-14.2, the meaning set forth in IC 12-17.2-2-14.2(a).

(5) For purposes of IC 12-17.2-3.6, the meaning set forth in IC 12-17.2-3.6-7.

(6) For purposes of IC 12-17.2-3.8, the meaning set forth in IC 12-17.2-3.8-2.

(7) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-5.

As added by P.L.2-1992, SEC.1. Amended by P.L.24-1997, SEC.16; P.L.273-1999, SEC.166; P.L.283-2001, SEC.16; P.L.255-2003, SEC.13; P.L.110-2010, SEC.18; P.L.205-2013, SEC.179; P.L.267-2013, SEC.2; P.L.2-2014, SEC.63.

IC 12-7-2-146 Version b
Program

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 146. "Program" refers to the following:

(1) For purposes of IC 12-8-12.5, the meaning set forth in IC 12-8-12.5-1.

(2) For purposes of IC 12-10-7, the adult guardianship services program established by IC 12-10-7-5.

(3) For purposes of IC 12-10-10, the meaning set forth in IC 12-10-10-5.

(4) For purposes of IC 12-10-10.5, the meaning set forth in IC 12-10-10.5-4.

(5) For purposes of IC 12-17.2-2-14.2, the meaning set forth in IC 12-17.2-2-14.2(a).

(6) For purposes of IC 12-17.2-3.6, the meaning set forth in IC 12-17.2-3.6-7.

(7) For purposes of IC 12-17.2-3.8, the meaning set forth in IC 12-17.2-3.8-2.

(8) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-5.

As added by P.L.2-1992, SEC.1. Amended by P.L.24-1997, SEC.16; P.L.273-1999, SEC.166; P.L.283-2001, SEC.16; P.L.255-2003, SEC.13; P.L.110-2010, SEC.18; P.L.205-2013, SEC.179; P.L.267-2013, SEC.2; P.L.2-2014, SEC.63; P.L.145-2014, SEC.4.

IC 12-7-2-147
Property

Sec. 147. "Property", for purposes of IC 12-12-1, has the meaning set forth in IC 35-31.5-2-253.

As added by P.L.2-1992, SEC.1. Amended by P.L.114-2012, SEC.31.

IC 12-7-2-147.5
Prospective DUR

Sec. 147.5. "Prospective DUR", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-13.

As added by P.L.75-1992, SEC.13.

IC 12-7-2-148
Protective services

Sec. 148. "Protective services", for purposes of IC 12-10-3, has the meaning set forth in IC 12-10-3-5.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-149
Repealed

(Repealed by P.L.241-2003, SEC.21.)

IC 12-7-2-149.1
Provider

Sec. 149.1. "Provider" means the following:

(1) For purposes of IC 12-10-7, the meaning set forth in IC 12-10-7-3.

(2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:

(A) IC 12-14-1 through IC 12-14-9.5.

(B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

(C) IC 12-17.6.

(3) Except as provided in subdivisions (4) and (6), for purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.

(4) For purposes of IC 12-17.2-3.5, a person that:

(A) provides child care; and

(B) is directly paid for the provision of the child care under the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.

The term does not include an individual who provides services to a person described in clauses (A) and (B), regardless of whether the individual receives compensation.

(5) For purposes of IC 12-21-1 through IC 12-29-2, an organization:

(A) that:

(i) provides mental health services, as defined under 42 U.S.C. 300x-2(c);

(ii) provides addiction services; or

(iii) provides children's mental health services;

(B) that has entered into a provider agreement with the division of mental health and addiction under IC 12-21-2-7 to provide services in the least restrictive, most appropriate setting; and

(C) that is operated by one (1) of the following:

(i) A city, town, county, or other political subdivision of the state.

(ii) An agency of the state or of the United States.

(iii) A political subdivision of another state.

(iv) A hospital owned or operated by a unit of government or a building authority that is organized for the purpose of constructing facilities to be leased to units of government.

(v) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.

(vi) An organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(vii) A university or college.

(6) For purposes of IC 12-17.2-2-10, the following:

(A) A person described in subdivision (4).

(B) A child care center licensed under IC 12-17.2-4.

(C) A child care home licensed under IC 12-17.2-5.

As added by P.L.241-2003, SEC.2. Amended by P.L.145-2006, SEC.57; P.L.143-2011, SEC.8; P.L.225-2013, SEC.3.

IC 12-7-2-150
Psychiatric disorder

Sec. 150. "Psychiatric disorder", for purposes of section 130(2) of this chapter, means a mental disorder or disease. The term does not include the following:

(1) Mental retardation.
(2) A developmental disability.
(3) Alcoholism.
(4) Addiction to narcotic or dangerous drugs.

As added by P.L.2-1992, SEC.1. Amended by P.L.6-1995, SEC.5; P.L.108-1996, SEC.2.

IC 12-7-2-151
Psychiatric hospital

Sec. 151. "Psychiatric hospital", for purposes of section 82 of this chapter, means any of the following:

(1) A state institution.
(2) A general hospital:
(A) licensed by the state department of health; and
(B) that maintains and operates facilities for the observation, care, treatment, and detention of individuals who have a mental illness.
(3) A private psychiatric hospital licensed by the division of mental health and addiction.

As added by P.L.2-1992, SEC.1. Amended by P.L.215-2001, SEC.28; P.L.99-2007, SEC.48.

IC 12-7-2-152
Repealed

(Repealed by P.L.1-1993, SEC.91.)

IC 12-7-2-153
Public welfare

Sec. 153. (a) "Public welfare", for purposes of the statutes listed in subsection (b), means any form of public welfare or social security provided for in the statutes listed in subsection (b). The term does not include direct township assistance as administered by township trustees under IC 12-20.

(b) This section applies to the following statutes:

(1) IC 12-13.
(2) IC 12-14.
(3) IC 12-15.
(4) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.73-2005, SEC.6; P.L.145-2006, SEC.58.

IC 12-7-2-154
Repealed
(Repealed by P.L.20-1992, SEC.47.)

IC 12-7-2-154.8
Qualified entity
Sec. 154.8. "Qualified entity", for purposes of IC 12-15-2.3, has the meaning set forth in IC 12-15-2.3-2.
As added by P.L.58-1998, SEC.4. Amended by P.L.152-2001, SEC.1; P.L.1-2010, SEC.56.

IC 12-7-2-155
Qualified long term care policy
Sec. 155. "Qualified long term care policy", for purposes of IC 12-15-39.6, has the meaning set forth in IC 12-15-39.6-5.
As added by P.L.2-1992, SEC.1. Amended by P.L.24-1997, SEC.17.

IC 12-7-2-155.3
"Qualified Medicare beneficiary"
Sec. 155.3. "Qualified Medicare beneficiary", for purposes of IC 12-15-2-26, has the meaning set forth in IC 12-15-2-26(b).
As added by P.L.278-2013, SEC.1.

IC 12-7-2-155.5
"Qualifying individual"
Sec. 155.5. "Qualifying individual", for purposes of IC 12-15-2-26, has the meaning set forth in IC 12-15-2-26(c).
As added by P.L.278-2013, SEC.2.

IC 12-7-2-156
Reason to believe
Sec. 156. "Reason to believe", for purposes of IC 12-10-3, has the meaning set forth in IC 12-10-3-6.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-157
Reasonable means of communication
Sec. 157. "Reasonable means of communication", for purposes of IC 12-27-3, has the meaning set forth in IC 12-27-3-1.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-158
Recipient
Sec. 158. "Recipient" means the following:
(1) For purposes of the following statutes, a person who has received or is receiving assistance for the person or another person under any of the following statutes:
(A) IC 12-10-6.
(B) IC 12-13.
(C) IC 12-14.

(D) IC 12-15.
(E) IC 12-19.
(2) For purposes of IC 12-20-10 and IC 12-20-11:
(A) a single individual receiving township assistance; or
(B) if township assistance is received by a household with at least two (2) individuals, the member of the household most suited to perform available work.

As added by P.L.2-1992, SEC.1. Amended by P.L.272-1999, SEC.19; P.L.73-2005, SEC.7; P.L.145-2006, SEC.59.

IC 12-7-2-158.5
Reentry court program

Sec. 158.5. "Reentry court program", for purposes of IC 12-14-29, has the meaning set forth in IC 12-14-29-1.

As added by P.L.92-2005, SEC.1.

IC 12-7-2-159
Region

Sec. 159. "Region", for purposes of IC 12-10-7, has the meaning set forth in IC 12-10-7-4.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-160
Rehabilitation

Sec. 160. (a) "Rehabilitation", for purposes of the statutes listed in subsection (b), means a process of providing services to meet the current and future needs of persons with disabilities so that the individuals may prepare for and engage in gainful employment to the extent of their capabilities, as provided in 29 U.S.C. 720.

(b) This section applies to the following statutes:
(1) IC 12-8-1.5-10.
(2) IC 12-12-1.
(3) IC 12-12-3.
(4) IC 12-12-6.

As added by P.L.2-1992, SEC.1. Amended by P.L.138-1993, SEC.2; P.L.23-1993, SEC.40; P.L.49-1997, SEC.42; P.L.272-1999, SEC.20; P.L.160-2012, SEC.13.

IC 12-7-2-161
Rehabilitation center

Sec. 161. "Rehabilitation center", for purposes of IC 12-12-3, refers to the rehabilitation center established under IC 12-12-3-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.49-1997, SEC.43.

IC 12-7-2-162
Rehabilitation engineering

Sec. 162. "Rehabilitation engineering", for purposes of IC 12-12-6, has the meaning set forth in IC 12-12-6-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-162.5
Related

Sec. 162.5. "Related", for purposes of IC 12-17.2, means any of the following relationships to an individual who is less than eighteen (18) years of age by marriage, blood, or adoption:

(1) Parent.
(2) Grandparent.
(3) Brother.
(4) Sister.
(5) Stepparent.
(6) Stepgrandparent.
(7) Stepbrother.
(8) Stepsister.
(9) First cousin.
(10) Uncle.
(11) Aunt.

As added by P.L.20-1992, SEC.22 and P.L.81-1992, SEC.23. Amended by P.L.1-1993, SEC.92; P.L.145-2006, SEC.60.

IC 12-7-2-163
Repealed

(Repealed by P.L.139-1993, SEC.24.)

IC 12-7-2-163.5
Request for proposals

Sec. 163.5. "Request for proposals", for purposes of IC 12-8-12, has the meaning set forth in IC 12-8-12-3.

As added by P.L.46-1995, SEC.4. Amended by P.L.2-1997, SEC.32.

IC 12-7-2-164
Resident

Sec. 164. "Resident" has the following meaning:

(1) For purposes of IC 12-10-15, the meaning set forth in IC 12-10-15-5.
(2) For purposes of IC 12-16, except IC 12-16-1, an individual who has actually resided in Indiana for at least ninety (90) days.
(3) For purposes of IC 12-20-8, the meaning set forth in IC 12-20-8-1.
(4) For purposes of IC 12-24-5, the meaning set forth in IC 12-24-5-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.73-1998, SEC.5; P.L.283-2001, SEC.18; P.L.120-2002, SEC.12; P.L.255-2003, SEC.15.

IC 12-7-2-165
Residential facility

Sec. 165. "Residential facility", for purposes of IC 12-28-4 and IC 12-28-5, refers to a residential facility for individuals with a developmental disability.

As added by P.L.2-1992, SEC.1. Amended by P.L.99-2007, SEC.49;

P.L.143-2011, SEC.9.

IC 12-7-2-166
Residential facility for individuals with a developmental disability

Sec. 166. "Residential facility for individuals with a developmental disability", for purposes of IC 12-28-4 and IC 12-28-5, means a facility that provides residential services for individuals with a developmental disability in a program described in IC 12-11-1.1-1(e)(1) or IC 12-11-1.1-1(e)(2).

As added by P.L.2-1992, SEC.1. Amended by P.L.23-1992, SEC.2; P.L.272-1999, SEC.21; P.L.99-2007, SEC.50.

IC 12-7-2-167
Repealed

(Repealed by P.L.143-2011, SEC.31.)

IC 12-7-2-168
Respite care

Sec. 168. "Respite care" means, for purposes of IC 12-10-5, temporary care or supervision of an individual with Alzheimer's disease or a related senile dementia that is provided because the individual's family or caretaker is temporarily unable or unavailable to provide needed care.

As added by P.L.2-1992, SEC.1. Amended by P.L.272-1999, SEC.22; P.L.143-2011, SEC.10; P.L.153-2011, SEC.3.

IC 12-7-2-169
Responsible party

Sec. 169. (a) "Responsible party", for purposes of IC 12-24-6, IC 12-24-13, IC 12-24-14, and IC 12-24-15 means any of the following:

(1) The patient.
(2) The parents of the patient if the patient is not more than eighteen (18) years of age.
(3) The spouse of the patient.
(4) The estate of the patient.
(5) A legal guardian of the patient in the guardian's representative capacity.
(6) A trustee of the patient if the trust authorizes payment for the care, treatment, maintenance, or support of the patient.

(b) The term does not include the children of the patient.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-169.3
Retailer

Sec. 169.3. "Retailer", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

As added by P.L.257-1997(ss), SEC.8.

IC 12-7-2-169.5

Retrospective DUR

Sec. 169.5. "Retrospective DUR", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-14.

As added by P.L.75-1992, SEC.14.

IC 12-7-2-169.9

School

Sec. 169.9. "School", for purposes of IC 12-14-2-23, has the meaning set forth in IC 12-14-2-23(b).

As added by P.L.46-1995, SEC.5.

IC 12-7-2-170

School age child care program

Sec. 170. "School age child care program", for purposes of IC 12-17-12, has the meaning set forth in IC 12-17-12-5.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-171

School corporation

Sec. 171. "School corporation", for purposes of IC 12-17-12, has the meaning set forth in IC 12-17-12-6.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-172

Secretary

Sec. 172. (a) Except as provided in subsection (b), "secretary" refers to the secretary of family and social services appointed under IC 12-8-1.5-2.

(b) "Secretary", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.2-1997, SEC.33; P.L.160-2012, SEC.14.

IC 12-7-2-172.5

Repealed

(Repealed by P.L.1-1993, SEC.93.)

IC 12-7-2-173

Repealed

(Repealed by P.L.81-1992, SEC.40.)

IC 12-7-2-174

Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-174.5

Self-directed in-home health care

Sec. 174.5. "Self-directed in-home health care", for purposes of IC 12-10-17.1, has the meaning set forth in IC 12-10-17.1-9.

As added by P.L.255-2001, SEC.9. Amended by P.L.141-2006,

SEC.24.

IC 12-7-2-174.8
Endangered adult medical alert

Sec. 174.8. "Endangered adult medical alert" means an alert indicating that law enforcement officials are searching for a missing endangered adult.

As added by P.L.140-2005, SEC.2.

IC 12-7-2-175
Service provider

Sec. 175. "Service provider", for purposes of IC 12-27, means any of the following:

(1) A state institution.

(2) A private psychiatric hospital licensed under IC 12-25.

(3) A community mental health center.

(4) A community mental retardation and other developmental disabilities center.

(5) A service provider certified by the division of mental health and addiction to provide substance abuse treatment programs.

(6) A service provider or program receiving money from or through a division.

(7) Any other service provider, hospital, clinic, program, agency, or private practitioner if the individual receiving mental health services or developmental training was admitted without the individual's consent.

(8) A managed care provider (as defined in IC 12-7-2-127(b)).

As added by P.L.2-1992, SEC.1. Amended by P.L.40-1994, SEC.16; P.L.215-2001, SEC.29.

IC 12-7-2-176
Services

Sec. 176. "Services" means the following:

(1) For purposes of IC 12-10-1 and IC 12-10-2, those services designed to provide assistance to the aged and the aging, including the following:

(A) Nutritional programs.

(B) Facilities improvement.

(C) Transportation services.

(D) Senior volunteer programs.

(E) Supplementary health services.

(F) Programs for leisure time activities.

(G) Housing and employment counseling.

(H) Informational, referral, and counseling programs to aid the aging and aged in availing themselves of existing services intended to aid the aged in attaining and maintaining self-sufficiency, personal well-being, and maximum participation in community life.

(I) Other services required under regulations established under the Older Americans Act (42 U.S.C. 3001 et seq.).

(2) For purposes of IC 12-28-1, the meaning set forth in IC 12-28-1-4.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-177
Shelter

Sec. 177. (a) "Shelter", for purposes of IC 12-20, means a house, a mobile home, an apartment, a group of rooms, or a single room that is occupied or is intended for occupancy as separate living quarters where the occupant or intended occupant:

(1) does not live and eat with any other individual in the building; and

(2) has direct access to the occupant's living quarters from the outside of the building or through a common hall.

(b) Notwithstanding subsection (a), "shelter", for purposes of IC 12-20-17-2, has the meaning set forth in IC 12-20-17-2.

As added by P.L.2-1992, SEC.1. Amended by P.L.51-1996, SEC.9.

IC 12-7-2-178
Repealed

(Repealed by P.L.81-1992, SEC.40.)

IC 12-7-2-178.1
Repealed

(Repealed by P.L.1-2009, SEC.174.)

IC 12-7-2-178.5
Single source drug

Sec. 178.5. "Single source drug" means an outpatient drug that is produced or distributed under an original new drug application approved by the federal Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application.

As added by P.L.76-1994, SEC.1. Amended by P.L.6-2002, SEC.2 and P.L.107-2002, SEC.7.

IC 12-7-2-178.8
Repealed

(Repealed by P.L.141-2012, SEC.3.)

IC 12-7-2-179
Social Services Block Grant

Sec. 179. "Social Services Block Grant" refers to the block grant under 42 U.S.C. 1397 et seq.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-180
Solicitation

Sec. 180. "Solicitation", for purposes of IC 12-15-25-1, has the meaning set forth in IC 12-15-25-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-180.1
Special needs

Sec. 180.1. "Special needs", for purposes of IC 12-10.5, has the meaning set forth in IC 12-10.5-1-2.
As added by P.L.274-2003, SEC.4.

IC 12-7-2-180.2
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-180.3
Special skilled services

Sec. 180.3. "Special skilled services", for the purposes of IC 12-15-36, has the meaning set forth in IC 12-15-36-3.
As added by P.L.76-1992, SEC.2.

IC 12-7-2-180.4
"Specified low-income Medicare beneficiary"

Sec. 180.4. "Specified low-income Medicare beneficiary", for purposes of IC 12-15-2-26, has the meaning set forth in IC 12-15-2-26(d).
As added by P.L.278-2013, SEC.3.

IC 12-7-2-180.5
Standards

Sec. 180.5. "Standards", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-15.
As added by P.L.75-1992, SEC.15.

IC 12-7-2-181
Repealed

(Repealed by P.L.1-1993, SEC.95.)

IC 12-7-2-182
Repealed

(Repealed by P.L.188-2013, SEC.4.)

IC 12-7-2-183
Repealed

(Repealed by P.L.49-1997, SEC.86.)

IC 12-7-2-184
State institution

Sec. 184. (a) "State institution" means an institution:

(1) owned or operated by the state;

(2) for the observation, care, treatment, or detention of an individual; and

(3) under the administrative control of a division.

(b) The term includes the following:
(1) Evansville State Hospital.
(2) Evansville State Psychiatric Treatment Center for Children.
(3) Larue D. Carter Memorial Hospital.
(4) Logansport State Hospital.
(5) Madison State Hospital.
(6) Richmond State Hospital.

As added by P.L.2-1992, SEC.1. Amended by P.L.272-1999, SEC.24; P.L.141-2006, SEC.25; P.L.188-2013, SEC.5.

IC 12-7-2-184.3
State match

Sec. 184.3. "State match", for purposes of IC 12-8-12.5, means funding that counts toward the state's maintenance of effort under TANF (45 CFR 265) to obtain the maximum reimbursement available to the state from the TANF emergency fund under Division B, Title II, Subtitle B of the federal American Recovery and Reinvestment Act of 2009.

As added by P.L.110-2010, SEC.19.

IC 12-7-2-184.5
State of Indiana general educational development (GED) diploma

Sec. 184.5. "State of Indiana general educational development (GED) diploma", for purposes of IC 12-14-5, has the meaning set forth in IC 12-14-5-2.

As added by P.L.1-2007, SEC.109.

IC 12-7-2-185
State ombudsman

Sec. 185. "State ombudsman", for purposes of IC 12-10-13, has the meaning set forth in IC 12-10-13-6.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-185.5
State or local public benefit

Sec. 185.5. "State or local public benefit", for purposes of IC 12-32-1, has the meaning set forth in IC 12-32-1-3.

As added by P.L.171-2011, SEC.12.

IC 12-7-2-186
State plan

Sec. 186. "State plan", for purposes of IC 12-8-6.5, refers to the state Medicaid plan for the Medicaid program.

As added by P.L.2-1992, SEC.1. Amended by P.L.160-2012, SEC.15.

IC 12-7-2-186.2
State plan amendment

Sec. 186.2. "State plan amendment", for purposes of IC 12-15-46-1, has the meaning set forth in IC 12-15-46-1(c).

As added by P.L.6-2012, SEC.85.

IC 12-7-2-186.5
Repealed
(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-187
Repealed
(Repealed by P.L.90-2002, SEC.528.)

IC 12-7-2-188
Superintendent
Sec. 188. "Superintendent" has the following meaning:
(1) For purposes of IC 12-24, the term refers to the administrative head of a state institution appointed under IC 12-24-2-2.
(2) For purposes of IC 12-24-6, IC 12-24-15, and IC 12-24-17, the term includes:
(A) an employee; or
(B) an individual who holds a license to practice medicine under IC 25-22.5;
designated as a deputy or an agent of the individual described in subdivision (1).
(3) For purposes of IC 12-26, the term means the chief administrative officer of a facility and includes the chief administrative officer's designee.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-188.3
Supervised group living facility
Sec. 188.3. "Supervised group living facility", for purposes of IC 12-28-4 and IC 12-28-5, refers to a supervised group living facility for individuals with a developmental disability.
As added by P.L.6-1995, SEC.7. Amended by P.L.111-1997, SEC.1; P.L.99-2007, SEC.52.

IC 12-7-2-188.5
Supervised group living facility for individuals with a developmental disability
Sec. 188.5. "Supervised group living facility for individuals with a developmental disability", for purposes of IC 12-28-4 and IC 12-28-5, refers to a supervised group living facility for individuals with a developmental disability in a program described in IC 12-11-1.1-1(e)(1).
As added by P.L.6-1995, SEC.8. Amended by P.L.272-1999, SEC.25; P.L.99-2007, SEC.53.

IC 12-7-2-188.7
Repealed
(Repealed by P.L.143-2011, SEC.31.)

IC 12-7-2-189

Support

Sec. 189. "Support", for purposes of IC 12-20-25-41 has the meaning set forth in IC 12-20-25-41.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-189.3

Supportive services

Sec. 189.3. "Supportive services", for purposes of IC 12-10-15, has the meaning set forth in IC 12-10-15-6.

As added by P.L.73-1998, SEC.6.

IC 12-7-2-189.5

SURS

Sec. 189.5. "SURS", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-16.

As added by P.L.75-1992, SEC.16.

IC 12-7-2-189.7

TANF

Sec. 189.7. "TANF", for purposes of IC 12-20 and IC 12-8-12.5, refers to the federal Temporary Assistance for Needy Families program under 42 U.S.C. 601 et seq.

As added by P.L.180-2005, SEC.2. Amended by P.L.110-2010, SEC.20.

IC 12-7-2-189.8

TANF program

Sec. 189.8. "TANF program" refers to the federal Temporary Assistance for Needy Families program under 42 U.S.C. 601 et seq.

As added by P.L.92-2005, SEC.2.

IC 12-7-2-190

Task force

Sec. 190. "Task force", for purposes of IC 12-10-5, has the meaning set forth in IC 12-10-5-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-190.3

Telehealth services

Sec. 190.3. "Telehealth services", for purposes of IC 12-15-5-11, has the meaning set forth in IC 12-15-5-11(a).

As added by P.L.204-2013, SEC.1.

IC 12-7-2-190.4

Telemedicine services

Sec. 190.4. "Telemedicine services", for purposes of IC 12-15-5-11, has the meaning set forth in IC 12-15-5-11(b).

As added by P.L.204-2013, SEC.2.

IC 12-7-2-190.5

Therapeutic appropriateness

Sec. 190.5. "Therapeutic appropriateness", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-17.

As added by P.L.75-1992, SEC.17.

IC 12-7-2-190.6

Therapeutic classification; therapeutic category

Sec. 190.6. "Therapeutic classification" or "therapeutic category", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-17.5.

As added by P.L.107-2002, SEC.8.

IC 12-7-2-190.7

Therapeutic duplication

Sec. 190.7. "Therapeutic duplication", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-18.

As added by P.L.75-1992, SEC.18.

IC 12-7-2-190.8

Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-190.9

Title IV-A

Sec. 190.9. "Title IV-A" refers to Title IV-A of the federal Social Security Act.

As added by P.L.257-1997(ss), SEC.9.

IC 12-7-2-191

Title IV-A Agency

Sec. 191. "Title IV-A Agency", for purposes of IC 12-17, refers to the division of family resources.

As added by P.L.2-1992, SEC.1. Amended by P.L.145-2006, SEC.61.

IC 12-7-2-192

Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-2-192.3

Total number of households containing township assistance recipients

Sec. 192.3. "Total number of households containing township assistance recipients", for purposes of IC 12-20-28-3, has the meaning set forth in IC 12-20-28-3(c).

As added by P.L.51-1996, SEC.10. Amended by P.L.73-2005, SEC.8; P.L.180-2005, SEC.3; P.L.1-2006, SEC.184.

IC 12-7-2-192.4

Total number of recipients

Sec. 192.4. "Total number of recipients", for purposes of

IC 12-20-28-3, has the meaning set forth in IC 12-20-28-3(d).
As added by P.L.51-1996, SEC.11. Amended by P.L.180-2005, SEC.4.

IC 12-7-2-192.5
Total number of requests for assistance
Sec. 192.5. "Total number of requests for assistance", for purposes of IC 12-20-28-3, has the meaning set forth in IC 12-20-28-3(e).
As added by P.L.51-1996, SEC.12. Amended by P.L.180-2005, SEC.5.

IC 12-7-2-192.7
Repealed
(Repealed by P.L.143-2008, SEC.15.)

IC 12-7-2-193
Treatment by the department
Sec. 193. "Treatment by the department", for purposes of IC 12-23, means treatment in a treatment program within Indiana that is certified under IC 12-23-1-6.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-194
Treatment team
Sec. 194. "Treatment team", for purposes of IC 12-24-7, has the meaning set forth in IC 12-24-7-2.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-194.5
Trustees
Sec. 194.5. "Trustees", for purposes of IC 12-15-18, has the meaning set forth in IC 12-15-18-3.5.
As added by P.L.27-1992, SEC.9.

IC 12-7-2-195
Tuberculosis
Sec. 195. "Tuberculosis", for purposes of IC 12-30-7-27, has the meaning set forth in IC 12-30-7-27.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-196
Unit
Sec. 196. "Unit", for purposes of IC 12-12-7, has the meaning set forth in IC 12-12-7-1.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-196.5
Unrestricted access
Sec. 196.5. "Unrestricted access", for purposes of IC 12-15-35.5,

has the meaning set forth in IC 12-15-35.5-2.5.
As added by P.L.107-2002, SEC.9.

IC 12-7-2-197
Vending machines
Sec. 197. "Vending facilities", for purposes of IC 12-12-5, means automatic vending machines and snack bars and the auxiliary equipment necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-198
Visually impaired
Sec. 198. (a) "Visually impaired", for purposes of the statutes listed in subsection (b), refers to an individual who has a visual acuity between 20/60 and 20/200 in the individual's better eye with the best correction or a corresponding loss in visual field.
(b) This section applies to the following statutes:
(1) IC 12-12-1.
(2) IC 12-12-3.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-199
Vocational rehabilitation services
Sec. 199. "Vocational rehabilitation services", for purposes of IC 12-28-1, has the meaning set forth in IC 12-28-1-5.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-199.2
"Volunteer"
Sec. 199.2. "Volunteer", for purposes of IC 12-17.2, means an individual who, without compensation, provides services to a child care home, child care center, provider (as defined in section 149.1(4) of this chapter), or child care ministry for at least eight (8) hours per month.
As added by P.L.18-2003, SEC.5. Amended by P.L.225-2013, SEC.4.

IC 12-7-2-199.3
Repealed
(Repealed by P.L.18-2003, SEC.34.)

IC 12-7-2-199.5
Voucher payment
Sec. 199.5. "Voucher payment", for purposes of IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-3.5-3.
As added by P.L.247-2001, SEC.2.

IC 12-7-2-199.8

Waiver

Sec. 199.8. As used in IC 12-15-46-2, "waiver" has the meaning set forth in IC 12-15-46-2(c).

As added by P.L.6-2012, SEC.86.

IC 12-7-2-200

Warrant

Sec. 200. (a) "Warrant", for purposes of the statutes listed in subsection (b), means an instrument that is:

(1) the equivalent of a money payment; and

(2) immediately convertible into cash by the payee for the full face amount of the instrument.

(b) This section applies to the following statutes:

(1) IC 12-10-6.

(2) IC 12-13.

(3) IC 12-14.

(4) IC 12-15.

(5) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.145-2006, SEC.62.

IC 12-7-2-200.4

Waste

Sec. 200.4. "Waste", for purposes of IC 12-15-35.5, has the meaning set forth in IC 12-15-35.5-2.6.

As added by P.L.11-2010, SEC.1.

IC 12-7-2-200.5

Wasted resources

Sec. 200.5. "Wasted resources", for purposes of IC 12-20, means:

(1) the amount of money or resources expended by an applicant or an adult member of an applicant's household seeking township assistance during the thirty (30) days before the date of application for township assistance for items or services that are not basic necessities;

(2) income, resources, or tax supported services lost or reduced as a result of a voluntary act during the sixty (60) days before the date of application for township assistance by an adult member of an applicant's household unless the adult member can establish a good reason for the act; or

(3) lump sum amounts of money or resources from tax refunds, lawsuits, inheritances, or pension payments of at least four hundred dollars ($400) that are expended by:

(A) an applicant seeking township assistance; or

(B) an adult member of the applicant's household;

during the one hundred eighty (180) days immediately preceding the date of application for township assistance for items or services that are not basic necessities if, at the time of the expenditure, there were amounts due and owing for items or services constituting basic necessities.

As added by P.L.51-1996, SEC.13. Amended by P.L.262-2003,

SEC.1; P.L.73-2005, SEC.9.

IC 12-7-2-201
Repealed
(Repealed by P.L.145-2006, SEC.376.)

IC 12-7-3

Chapter 3. Effect of Previously Adopted Rules

IC 12-7-3-1

Treatment of rules adopted by department of mental health concerning developmental disabilities

Sec. 1. (a) A rule adopted by the department of mental health concerning developmental disabilities under IC 16-13-1 (before its repeal by P.L.9-1991) is valid and effective until the division of aging and rehabilitative services adopts a rule under IC 4-22-2 that:

(1) supersedes in whole or in part the department of mental health rule; or

(2) repeals the department of mental health rule.

(b) Notwithstanding subsection (a), if a rule adopted by the department of mental health before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the department of mental health that has been transferred to the division of aging and rehabilitative services under P.L.9-1991;

that rule shall be interpreted to constitute an authorization to the division of aging and rehabilitative services and not the department of mental health.

As added by P.L.220-2011, SEC.253.

IC 12-7-3-2

Treatment of rules adopted by department of mental health concerning case management services for developmentally disabled

Sec. 2. (a) A rule adopted by the department of mental health concerning case management services for developmentally disabled persons under IC 16-14-31 (before its repeal by P.L.9-1991) is valid and effective until the division of aging and rehabilitative services adopts a rule under IC 4-22-2 that:

(1) supersedes in whole or in part the department of mental health rule; or

(2) repeals the department of mental health rule.

(b) Notwithstanding subsection (a), if a rule adopted by the department of mental health before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the department of mental health that has been transferred to the division of aging and rehabilitative services under P.L.9-1991;

that rule shall be interpreted to constitute an authorization to the division of aging and rehabilitative services and not the department of mental health.

As added by P.L.220-2011, SEC.253.

IC 12-7-3-3

Treatment of rules adopted by department of mental health

concerning residential facilities

Sec. 3. (a) A rule adopted by the department of mental health concerning residential facilities under IC 16-13-21 or IC 16-13-22, as amended by P.L.9-1991 and before their repeal, is valid and effective until the division of aging and rehabilitative services adopts a rule under IC 4-22-2 that:

(1) supersedes in whole or in part the department of mental health rule; or

(2) repeals the department of mental health rule.

(b) Notwithstanding subsection (a), if a rule adopted by the department of mental health before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the department of mental health that has been transferred to the division of aging and rehabilitative services under P.L.9-1991;

that rule shall be interpreted to constitute an authorization to the division of aging and rehabilitative services and not the department of mental health.

As added by P.L.220-2011, SEC.253.

IC 12-7-3-4

Treatment of rules adopted by state board of health concerning child care licensing

Sec. 4. (a) A rule adopted by the state board of health concerning child care licensing under IC 12-3-2, as amended by P.L.9-1991 and before its repeal, is valid and effective until the division of family and children adopts a rule under IC 4-22-2 that:

(1) supersedes in whole or in part the state board of health rule; or

(2) repeals the state board of health rule.

(b) Notwithstanding subsection (a), if a rule adopted by the state board of health before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the state board of health that has been transferred to the division of family and children under P.L.9-1991;

that rule shall be interpreted to constitute an authorization to the division of family and children and not the state board of health.

As added by P.L.220-2011, SEC.253.

IC 12-7-3-5

Treatment of rules adopted by state department of public welfare concerning room and board assistance

Sec. 5. (a) A rule adopted by the state department of public welfare concerning room and board assistance under IC 12-1-5.5, as repealed by P.L.9-1991, is valid and effective until the division of aging and rehabilitative services adopts a rule under IC 4-22-2 that:

(1) supersedes in whole or in part the state department of public

welfare rule; or

(2) repeals the state department of public welfare rule.

(b) Notwithstanding subsection (a), if a rule adopted by the state department of public welfare before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the state department of public welfare that has been transferred to the division of aging and rehabilitative services under P.L.9-1991;

that rule shall be interpreted to constitute an authorization to the office of Medicaid policy and planning established under IC 12-6-6 (before its repeal) and not the state board of public welfare.

As added by P.L.220-2011, SEC.253.

IC 12-7-3-6

Treatment of rules adopted by state department of public welfare concerning Medicaid

Sec. 6. (a) A rule adopted by the state department of public welfare concerning the state medical assistance plan (Medicaid) under IC 12-1-7 (before its repeal) before January 1, 1992, is valid and effective until the secretary appointed under IC 12-6-2-2 (before its repeal) adopts a rule under IC 4-22-2 that:

(1) supersedes in whole or in part the state department of public welfare rule; or

(2) repeals the state department of public welfare rule.

(b) Notwithstanding subsection (a), if a rule adopted by the state department of public welfare before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the state department of public welfare that has been transferred to the secretary appointed under IC 12-6-2-2 (before its repeal) under P.L.9-1991;

that rule shall be interpreted to constitute an authorization to the office of Medicaid policy and planning established under IC 12-6-6 (before its repeal) and not the state department of public welfare.

As added by P.L.220-2011, SEC.253.

IC 12-7-3-7

Treatment of rules adopted by department of human services concerning social services

Sec. 7. (a) A rule adopted by the department of human services concerning social services under IC 4-28-6, as repealed by P.L.9-1991, is valid and effective until the division of family and children adopts a rule under IC 4-22-2 that:

(1) supersedes in whole or in part the department of human services rule; or

(2) repeals the department of aging and rehabilitative services rule.

(b) Notwithstanding subsection (a), if a rule adopted by the department of human services before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the department of human services that has been transferred to the division of family and children under P.L.9-1991;

that rule shall be interpreted to constitute an authorization to the division of family and children and not the department of human services.

As added by P.L.220-2011, SEC.253.

IC 12-7-3-8

Treatment of rules adopted by interdepartmental board for the coordination of human services concerning the school age child care project fund

Sec. 8. (a) A rule adopted by the interdepartmental board for the coordination of human services concerning the school age child care project fund under IC 20-5-61, as repealed by P.L.9-1991, is valid and effective until the division of family and children adopts a rule under IC 4-22-2 that:

(1) supersedes in whole or in part the interdepartmental board for the coordination of human services rule; or

(2) repeals the interdepartmental board for the coordination of human services rule.

(b) Notwithstanding subsection (a), if a rule adopted by the interdepartmental board for the coordination of human services before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the interdepartmental board for the coordination of human services that has been transferred to the division of family and children under P.L.9-1991;

that rule shall be interpreted to constitute an authorization to the division of family and children and not the interdepartmental board for the coordination of human services.

As added by P.L.220-2011, SEC.253.

IC 12-7-3-9

Treatment of rules adopted by department of mental health concerning epilepsy services

Sec. 9. (a) A rule adopted by the department of mental health concerning epilepsy services is valid and effective until the division of aging and rehabilitative services adopts a rule under IC 4-22-2 that:

(1) supersedes in whole or in part the department of mental health rule; or

(2) repeals the department of mental health rule.

(b) Notwithstanding subsection (a), if a rule adopted by the department of mental health before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the department of mental health that has been transferred to the division of aging and rehabilitative services under P.L.9-1991;

that rule shall be interpreted to constitute an authorization to the division of aging and rehabilitative services and not the department of mental health.

As added by P.L.220-2011, SEC.253.

IC 12-7-3-10

Treatment of rules adopted by department of mental health concerning the handicapped infants and toddlers program

Sec. 10. (a) Except as provided in subsection (b), a rule adopted by the department of mental health concerning the handicapped infants and toddlers program, before its repeal by P.L.9-1991, is valid and effective until the section of child care services within the division of family and children adopts a rule under IC 4-22-2 that supersedes in whole or in part or otherwise repeals the department of mental health rule for the infants and toddlers with disabilities program under IC 12-17-14, as added by P.L.20-1992, and before its repeal.

(b) If a rule adopted by the department of mental health before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the department of mental health that has been transferred to the section of child care services within the division of family and children;

the rule shall be interpreted to constitute an authorization to the section of child care services within the division of family and children and not the division of mental health.

As added by P.L.220-2011, SEC.253.

IC 12-7-3-11

Treatment of rules adopted by Indiana state board of education concerning the school age child care project fund

Sec. 11. (a) Except as provided in subsection (b), a rule adopted by the Indiana state board of education concerning the school age child care project fund, before its repeal by P.L.9-1991, is valid and effective until the section of child care services within the division of family and children adopts a rule under IC 4-22-2 that supersedes in whole or in part or otherwise repeals the Indiana state board of education rule for the school age child care project program established under IC 12-17-12, as amended by P.L.20-1992, and before its repeal.

(b) If a rule adopted by the Indiana state board of education before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the Indiana state board of education that has been transferred to the section of child care services

within the division of family and children;

the rule shall be interpreted to constitute an authorization to the section of child care services within the division of family and children and not the Indiana state board of education.

As added by P.L.220-2011, SEC.253.

IC 12-7-3-12

Treatment of rules adopted by department of mental health concerning handicapped infants and toddlers program

Sec. 12. (a) Except as provided in subsection (b), a rule adopted by the department of mental health concerning the handicapped infants and toddlers program, before its repeal by P.L.9-1991, is valid and effective until the section of child care services within the division of family and children adopts a rule under IC 4-22-2 that supersedes in whole or in part or otherwise repeals the department of mental health rule for the infants and toddlers with disabilities program under IC 12-17-15, as added by P.L.21-1992, and before its repeal.

(b) If a rule adopted by the department of mental health before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the department of mental health that has been transferred to the section of child care services within the division of family and children;

the rule shall be interpreted to constitute an authorization to the section of child care services within the division of family and children and not the division of mental health.

As added by P.L.220-2011, SEC.253.

IC 12-7-3-13

Treatment of rules adopted by interdepartmental board for the coordination of human services concerning the school age child care project fund

Sec. 13. (a) Except as provided in subsection (b), a rule adopted by the interdepartmental board for the coordination of human service programs concerning the school age child care project fund, before its repeal by P.L.9-1991, is valid and effective until the section of child care services within the division of family and children adopts a rule under IC 4-22-2 that supersedes in whole or in part or otherwise repeals the interdepartmental board rule for the school age child care project program established under IC 12-17-12.

(b) If a rule adopted by the interdepartmental board for the coordination of human service programs before January 1, 1992:

(1) has not been superseded or repealed as provided in subsection (a); and

(2) provides authority to the interdepartmental board that has been transferred to the section of child care services within the division of family and children;

the rule shall be interpreted to constitute an authorization to the

section of child care services within the division of family and children and not the interdepartmental board for the coordination of human service programs.

As added by P.L.220-2011, SEC.253.

IC 12-8

ARTICLE 8. ADMINISTERING FAMILY AND SOCIAL SERVICES

IC 12-8-1

Chapter 1. Expired

(Expired 6-30-2011 by P.L.182-2009(ss), SEC.294.)

IC 12-8-1.5

Chapter 1.5. Office of Secretary of Family and Social Services

IC 12-8-1.5-0.3

Legalization of certain actions

Sec. 0.3. (a) Actions taken under IC 12-8-1 (expired), after December 31, 2007, and before March 24, 2008, are legalized and validated to the extent that those actions would have been legal and valid if P.L.113-2008 had been enacted before January 1, 2008.

(b) Actions taken under IC 12-8-1 (expired) after June 30, 2011, are legalized and validated to the extent that those actions would have been legal and valid if IC 12-8-1 had not expired on June 30, 2011.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-1

Establishment

Sec. 1. (a) The office of the secretary of family and social services is established.

(b) The office of the secretary includes the following:

(1) The secretary.

(2) Each office.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-2

Appointment

Sec. 2. The governor shall appoint the secretary of family and social services to coordinate family and social service programs among the divisions.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-3

General responsibilities

Sec. 3. (a) The secretary has administrative responsibility for the office of the secretary.

(b) Subject to this article, the secretary may organize an office to perform the duties of the office.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-4

Personnel

Sec. 4. The secretary may hire personnel necessary to perform the duties of each office.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-5

Technical assistance to divisions; coordination; related functions

Sec. 5. (a) The secretary, through the offices, is responsible for coordinating the provision of technical assistance to each division for the following:

(1) Compiling program budgets for each division.
(2) Fiscal performance of each division.
(3) Management and administrative performance of each division.
(4) Program performance of each division.

(b) The secretary, through the offices, is accountable for the following:

(1) Resolution of administrative, jurisdictional, or policy conflicts among the divisions.
(2) The coordination of the activities of each division with other entities, including the general assembly and other state agencies.
(3) Coordination of communication with the federal government and the governments of other states.
(4) Development and ongoing monitoring of a centralized management information system and a centralized training system for orientation and cross-training.
(5) The overall policy development and management of the state Medicaid plan under IC 12-15.
(6) Liaison activities with other governmental entities and private sector agencies.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-6
Cooperation between office and department of health

Sec. 6. (a) The secretary and the commissioner of the state department of health shall cooperate to coordinate family and social services programs with related programs administered by the state department of health.

(b) The secretary, in cooperation with the commissioner of the state department of health, is accountable for the following:

(1) Resolving administrative, jurisdictional, or policy conflicts between a division and the state department of health.
(2) Formulating overall policy for family, health, and social services in Indiana.
(3) Coordinating activities between the programs of the division of family resources and the maternal and child health programs of the state department of health.
(4) Coordinating activities concerning long term care between the division of disability and rehabilitative services and the state department of health.
(5) Developing and implementing a statewide family, health, and social services plan that includes a set of goals and priorities.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-7
Powers

Sec. 7. The secretary, through the offices, may do the following:

(1) Employ experts and consultants to carry out the duties of the

secretary and the offices.

(2) Utilize, with the consent of the other state agencies, the services and facilities of other state agencies without reimbursement.

(3) Accept in the name of the state, for use in carrying out the purposes of this article, any money or other property received as a gift, by bequest, or otherwise.

(4) Accept voluntary and uncompensated services.

(5) Expend money made available according to policies enforced by the budget agency.

(6) Establish and implement the policies and procedures necessary to implement this article.

(7) Advise the governor concerning rules adopted by a division.

(8) Create advisory bodies to advise the secretary about any matter relating to the implementation of this article.

(9) Perform other acts necessary to implement this article.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-8
Cooperation with federal agencies; federal aid

Sec. 8. (a) The secretary shall cooperate with the federal Social Security Administration and with any other agency of the federal government in any reasonable manner that may be necessary to qualify for federal aid for assistance to persons who are entitled to assistance under the provisions of the federal Social Security Act.

(b) The secretary shall do the following:

(1) Make reports in the form and containing the information required by the federal Social Security Administration Board or any other agency of the federal government.

(2) Comply with the requirements that the federal Social Security Administration Board or other agency of the federal government finds necessary to assure the correctness and verification of reports.

(c) The secretary shall act as the agent to the federal government in the following:

(1) Welfare matters of mutual concern.

(2) The administration of federal money granted to Indiana to aid the welfare functions of the state.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-9
Rules

Sec. 9. Consistent with the powers and duties of the secretary under this article, the secretary may adopt rules under IC 4-22-2 relating to the exercise of those powers and duties.

As added by P.L.160-2012, SEC.16. Amended by P.L.13-2013, SEC.44.

IC 12-8-1.5-9.1
Expired

(Expired 7-1-2013 by P.L.140-2013, SEC.12.)

IC 12-8-1.5-9.5
Rules; expiration; effect of policies set forth in rules

Sec. 9.5. (a) This subsection applies to an emergency rule adopted under section 9(b) of this chapter (before section 9(b) of this chapter expired on December 31, 2012). An emergency rule adopted under section 9(b) of this chapter expires December 31, 2013, regardless of any expiration date set forth in the rule.

(b) This subsection applies to a rule added or amended in LSA Document #10-792 or LSA Document #10-793 in 2011. The policies set forth in the following remain in effect through December 31, 2013, regardless of the effective date set forth in the rule:

(1) 405 IAC 1-11.5-2(g).

(2) 405 IAC 5-30-1.5(c).

(c) This subsection applies to an emergency rule adopted under IC 12-8-1-9(b) (before IC 12-8-1-9(b) expired on June 30, 2011). An emergency rule adopted under IC 12-8-1-9(b) expires December 31, 2013, regardless of any expiration date set forth in the rule.

As added by P.L.205-2013, SEC.180.

IC 12-8-1.5-10
Agency administering vocational rehabilitation programs; federal programs

Sec. 10. The office of the secretary is designated as the sole state agency responsible for administering programs concerning the vocational rehabilitation of individuals with a disability under 29 U.S.C. 701 et seq.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-10.5
Single state agency designation; Medicaid policy

Sec. 10.5. (a) The office of the secretary is designated as the single state agency for administration of the state Medicaid program under IC 12-15.

(b) The office of the secretary shall develop and coordinate Medicaid policy for the state.

As added by P.L.109-2014, SEC.15.

IC 12-8-1.5-11
Appropriation augmentation

Sec. 11. (a) If:

(1) the sums appropriated by the general assembly in the biennial budget to the family and social services administration for the Medicaid assistance, Medicaid administration, public assistance (TANF), and the IMPACT (JOBS) work program are insufficient to enable the office of the secretary to meet its obligations; and

(2) the failure to appropriate additional funds would:

(A) violate a provision of federal law; or

(B) jeopardize the state's share of federal financial participation applicable to the state appropriations contained in the biennial budget for Medicaid assistance, Medicaid administration, public assistance (TANF), or the IMPACT (JOBS) work program;

then there are appropriated further sums as may be necessary to remedy a situation described in this subsection, subject to the approval of the budget director and the unanimous recommendation of the members of the budget committee. However, before approving a further appropriation under this subsection, the budget director shall explain to the budget committee the factors indicating that a condition described in subdivision (2) would be met.

(b) If:

(1) the sums appropriated by the general assembly in the biennial budget to the family and social services administration for Medicaid assistance, Medicaid administration, public assistance (TANF), and the IMPACT (JOBS) work program are insufficient to enable the family and social services administration to meet its obligations; and

(2) neither of the conditions in subsection (a)(2) would result from a failure to appropriate additional funds;

then there are appropriated further sums as may be necessary to remedy a situation described in this subsection, subject to the approval of the budget director and the unanimous recommendation of the members of the budget committee. However, before approving a further appropriation under this subsection, the budget director shall explain to the budget committee the factors indicating that a condition described in subdivision (2) would be met.

(c) Notwithstanding IC 12-14 and IC 12-15 (except for a clinical advisory panel established under IC 12-15), and except as provided in subsection (d), the office of the secretary may by rule adjust programs, eligibility standards, and benefit levels to limit expenditures from Medicaid assistance, Medicaid administration, public assistance (TANF), and the IMPACT (JOBS) work program. The office of the secretary may adopt emergency rules under IC 4-22-2-37.1 to make an adjustment authorized by this subsection. However, adjustments under this subsection may not:

(1) violate a provision of federal law; or

(2) jeopardize the state's share of federal financial participation applicable to the state appropriations contained in the biennial budget for Medicaid assistance, Medicaid administration, public assistance (TANF), and the IMPACT (JOBS) work program.

(d) Subject to IC 12-15-21-3, any adjustments made under subsection (c) must:

(1) allow for a licensed provider under IC 12-15 to deliver services within the scope of the provider's license if the benefit is covered under IC 12-15; and

(2) provide access to services under IC 12-15 from a provider under IC 12-15-12.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-12
Programs to review dependence on public assistance

Sec. 12. (a) Subject to the appropriation limits established by the state's biennial budget for the office of the secretary and its divisions, and after assistance, including assistance under TANF (IC 12-14), medical assistance (IC 12-15), and food stamps (7 U.S.C. 2016(i)), is distributed to persons eligible to receive assistance, the secretary may adopt rules under IC 4-22-2 to offer programs on a pilot or statewide basis to encourage recipients of assistance under IC 12-14 to become self-sufficient and discontinue dependence on public assistance programs. Programs offered under this subsection may do the following:

(1) Develop welfare-to-work programs.

(2) Develop home child care training programs that will enable recipients to work by providing child care for other recipients.

(3) Provide case management and supportive services.

(4) Develop a system to provide for public service opportunities for recipients.

(5) Provide plans to implement the personal responsibility agreement under IC 12-14-2-21.

(6) Develop programs to implement the school attendance requirement under IC 12-14-2-17.

(7) Provide funds for county planning council activities under IC 12-14-22-13 (repealed).

(8) Provide that a recipient may earn up to the federal income poverty level (as defined in IC 12-15-2-1) before assistance under this title is reduced or eliminated.

(9) Provide for child care assistance, with the recipient paying fifty percent (50%) of the local market rate as established under 45 CFR 256 for child care.

(10) Provide for medical care assistance under IC 12-15, if the recipient's employer does not offer the recipient health care coverage.

(b) If the secretary offers a program described in subsection (a), the secretary shall annually report the results and other relevant data regarding the program to the legislative council in an electronic format under IC 5-14-6.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-13
Implementation of methods to facilitate payment of providers

Sec. 13. The office of the secretary shall implement methods to facilitate the payment of providers under IC 12-15.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-14
Improvement of system through technology and training

Sec. 14. The office of the secretary shall improve its system through the use of technology and training of staff to do the following:

(1) Simplify, streamline, and destigmatize the eligibility and enrollment processes in all health programs serving children.
(2) Ensure an efficient provider payment system.
(3) Improve service to families.
(4) Improve data quality for program assessment and evaluation.

As added by P.L.160-2012, SEC.16.

IC 12-8-1.5-15
Implementation and administration of health care programs to uninsured; assistance with nonprofit organization

Sec. 15. (a) The office of the secretary shall:
(1) cooperate with; and
(2) assist;

a nonprofit organization with the purpose to implement and administer a program to provide health care to uninsured Indiana residents.

(b) The office of the secretary shall assist a nonprofit organization that has the purpose described in subsection (a) with the following:
(1) Determining eligibility of potential participants who have an income of not more than one hundred percent (100%) of the federal poverty level for a program described in this section.
(2) Issuing a plan card that is valid for one (1) year to an individual if:
(A) the office of the secretary has determined the individual is eligible for the program; and
(B) the individual has paid the office of the secretary a registration fee determined by the office.
(3) Operating a toll free telephone number that provides provider referral services for participants in the program.
(4) Implementing the program described in this section to combine the resources of the office of the secretary and the nonprofit organization in a manner that would not result in the additional expenditure of state funds.

As added by P.L.160-2012, SEC.16.

IC 12-8-2

Chapter 2. Expired

(Expired 6-30-2011 by P.L.182-2009(ss), SEC.295.)

IC 12-8-2.5

Chapter 2.5. Family and Social Services Bodies

IC 12-8-2.5-0.3

Legalization of certain actions

Sec. 0.3. (a) Actions taken under IC 12-8-2 (expired), after December 31, 2007, and before March 24, 2008, are legalized and validated to the extent that those actions would have been legal and valid if P.L.113-2008 had been enacted before January 1, 2008.

(b) Actions taken under IC 12-8-2 (expired) after June 30, 2011, are legalized and validated to the extent that those actions would have been legal and valid if IC 12-8-2 had not expired on June 30, 2011.

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-1

"Body"

Sec. 1. As used in this chapter, "body" refers to an entity described in section 3 of this chapter.

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-2

"Member"

Sec. 2. As used in this chapter, "member" refers to a member of a body.

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-3

Application of chapter

Sec. 3. Unless otherwise provided by a statute, this chapter applies to the following:

(1) The following advisory councils:

(A) The division of disability and rehabilitative services advisory council.

(B) The division of family resources advisory council.

(C) The division of mental health and addiction advisory council.

(2) A body:

(A) established by statute for a division; and

(B) whose enabling statute makes this chapter applicable to the body.

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-3.5

Service on advisory councils

Sec. 3.5. Up to five (5) individuals appointed by the secretary to serve on an entity not described in section 3(1) of this chapter may be appointed to serve concurrently on an advisory council described in section 3(1) of this chapter. However, an individual may not serve concurrently on more than one (1) advisory council described in section 3(1) of this chapter.

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-4
Member appointed to fixed term; limitations

Sec. 4. (a) This section applies only to a member who by statute is appointed to a fixed term.

(b) The term of an individual serving as a member begins on the latter of the following:

(1) The day the term of the member whom the individual is appointed to succeed expires. If the individual does not succeed a member, the member's term begins as provided in subdivision (2).

(2) The day the individual is appointed.

(c) The term of a member expires on July 1 of the second year after the expiration of the term of the member's immediate predecessor. If the member has no immediate predecessor, the term of the member expires on July 1 of the second year after the member's term began.

(d) A member may be reappointed for a new term. A reappointed member is the member's own:

(1) successor for purposes of subsection (b); and

(2) immediate predecessor for purposes of subsection (c).

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-5
Officeholder as member; tenure

Sec. 5. (a) This section applies only to an individual who serves as a member because of an office the individual holds.

(b) The individual serves as a member until the individual no longer holds the office.

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-6
Vacancies

Sec. 6. The appointing authority of a member shall appoint an individual to fill a vacancy in the office of the member.

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-7
Appointment of presiding officer

Sec. 7. Except as provided in another statute, the governor shall appoint a voting member of the body to be the presiding officer of the body.

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-8
Voting member status

Sec. 8. Unless otherwise provided by a statute, a member is a voting member.

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-9
Quorum

Sec. 9. A majority of the voting members of the body constitutes a quorum.

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-10
Majority vote

Sec. 10. The affirmative vote of a majority of the voting members of the body is required for the body to take any action.

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-11
Compensation; expense reimbursement

Sec. 11. (a) A member who is not a state employee is entitled to both of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) A member who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) A member who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

As added by P.L.160-2012, SEC.17.

IC 12-8-2.5-11.5
Agenda

Sec. 11.5. In addition to the requirements of IC 5-14-1.5, the office of the secretary or a division will make a good faith effort to ensure that members of any body subject to this chapter receive a copy of an agenda at least forty-eight (48) hours before any meeting of the body.

As added by P.L.160-2012, SEC.17.

IC 12-8-3
Repealed

(Repealed by P.L.229-2011, SEC.271.)

IC 12-8-4
Repealed

(Repealed by P.L.253-1997(ss), SEC.44.)

IC 12-8-5
Repealed

(Repealed by P.L.253-1997(ss), SEC.44.)

IC 12-8-6

Chapter 6. Expired

(Expired 6-30-2011 by P.L.182-2009(ss), SEC.296.)

IC 12-8-6.5

Chapter 6.5. Office of Medicaid Policy and Planning

IC 12-8-6.5-0.3

Legalization of certain actions

Sec. 0.3. (a) Actions taken under IC 12-8-6 (expired), after December 31, 2007, and before March 24, 2008, are legalized and validated to the extent that those actions would have been legal and valid if P.L.113-2008 had been enacted before January 1, 2008.

(b) Actions taken under IC 12-8-6 (expired) after June 30, 2011, are legalized and validated to the extent that those actions would have been legal and valid if IC 12-8-6 had not expired on June 30, 2011.

As added by P.L.160-2012, SEC.18.

IC 12-8-6.5-1

Establishment

Sec. 1. The office of Medicaid policy and planning is established.

As added by P.L.160-2012, SEC.18.

IC 12-8-6.5-2

Administrator

Sec. 2. The secretary shall appoint an administrator responsible for management of the office.

As added by P.L.160-2012, SEC.18.

IC 12-8-6.5-3

Repealed

(Repealed by P.L.109-2014, SEC.16.)

IC 12-8-6.5-4

Development and coordination of state Medicaid policy

Sec. 4. Under the direction of the secretary, the office shall develop and coordinate Medicaid policy for the state.

As added by P.L.160-2012, SEC.18. Amended by P.L.109-2014, SEC.17.

IC 12-8-6.5-5

Rules

Sec. 5. The secretary may adopt rules under IC 4-22-2 to implement this chapter and the state Medicaid program.

As added by P.L.160-2012, SEC.18.

IC 12-8-6.5-6

Administrative adjudication; secretary; ultimate authority

Sec. 6. (a) For purposes of IC 4-21.5, the secretary is the ultimate authority for the state Medicaid program.

(b) The secretary shall adopt rules under IC 4-22-2 to specify any additional necessary procedures for administrative review of an agency action under IC 4-21.5 and the state Medicaid program.

As added by P.L.160-2012, SEC.18.

IC 12-8-6.5-7
Written memorandum of understanding; division of mental health and addiction

Sec. 7. The office and the division of mental health and addiction shall develop a written memorandum of understanding that provides the following:

(1) Program responsibilities for the provision of care and treatment for individuals with a mental illness.
(2) Responsibilities to educate and inform vendors of the proper billing procedures.
(3) Responsibilities in administering the state plan.
(4) Responsibilities for Medicaid fiscal and quality accountability and audits for mental health services.
(5) That the division shall recommend options and services to be reimbursed under the state plan.
(6) That the office and the division agree that, within the limits of 42 U.S.C. 1396 et seq., individuals with a mental illness cannot be excluded from services on the basis of diagnosis unless these services are otherwise provided and reimbursed under the state plan.
(7) That the office shall seek review and comment from the division before the adoption of rules or standards that may affect the service, programs, or providers of medical assistance services for individuals with a mental illness.
(8) That the division shall develop rate setting policies for medical assistance services for individuals with a mental illness.
(9) Policies to facilitate communication between the office and the division.
(10) Any additional provisions that enhance communication between the office and the division or facilitate more efficient or effective delivery of mental health services.

As added by P.L.160-2012, SEC.18.

IC 12-8-6.5-8
Written memorandum of understanding; division of disability and rehabilitative services

Sec. 8. The office and the division of disability and rehabilitative services shall develop a written memorandum of understanding that provides the following:

(1) Program responsibilities for the provision of care and treatment for individuals with a developmental disability and long term care recipients.
(2) Responsibilities to educate and inform vendors of the proper billing procedures.
(3) Responsibilities in administering the state plan.
(4) Responsibilities for Medicaid fiscal and quality accountability and audits for developmental disability and long term care services.
(5) That the division shall recommend options and services to be reimbursed under the state plan.

(6) That the office and the division agree that, within the limits of 42 U.S.C. 1396 et seq., individuals with a developmental disability and long term care recipients cannot be excluded from services on the basis of diagnosis unless these services are otherwise provided and reimbursed under the state plan.

(7) That the office shall seek review and comment from the division before the adoption of rules or standards that may affect the service, programs, or providers of medical assistance services for individuals with a developmental disability and long term care recipients.

(8) That the division shall develop rate setting policies for medical assistance services for individuals with a developmental disability and long term care recipients.

(9) That the office, with the assistance of the division, shall apply for waivers from the United States Department of Health and Human Services to fund community and home based long term care services as alternatives to institutionalization.

(10) Policies to facilitate communication between the office and the division.

(11) Any additional provisions that enhance communication between the office and the division or facilitate more efficient or effective delivery of developmental disability or long term care services.

As added by P.L.160-2012, SEC.18.

IC 12-8-6.5-9

Written memorandum of understanding; department of child services; division of family resources

Sec. 9. The office, the division of family resources, and the department of child services shall develop a written memorandum of understanding that provides the following:

(1) Program responsibilities for the provision of care and treatment for recipients served by the division.

(2) Responsibilities to educate and inform vendors of the proper billing procedures.

(3) Responsibilities in administering the state plan.

(4) Responsibilities for Medicaid fiscal and quality accountability and audits for services administered by the division.

(5) That the division shall recommend options and services to be reimbursed under the Medicaid state plan.

(6) That the office and the division agree that, within the limits of 42 U.S.C. 1396 et seq., recipients served by the division cannot be excluded from services on the basis of diagnosis unless these services are otherwise provided and reimbursed under the state plan.

(7) That the office shall seek review and comment from the division before the adoption of rules or standards that may affect the service, programs, or providers of medical assistance services for recipients served by the division.

(8) That the division shall develop rate setting policies for medical assistance services administered by the division.

(9) Policies to facilitate communication between the office and the division.

(10) Any additional provisions that enhance communication between the office and the division or facilitate more efficient or effective delivery of services.

As added by P.L.160-2012, SEC.18.

IC 12-8-6.5-10

Reduction of reimbursement rates; over the counter drugs; schedules; strategies; case management

Sec. 10. (a) The office shall reduce reimbursement rates for over-the-counter drugs by ten percent (10%) not later than July 1, 2001.

(b) The office shall implement a Maximum Allowable Cost schedule for off-patent drugs not later than November 1, 2001.

(c) Not later than January 1, 2002, the office shall implement an information strategy directed to high volume prescribers.

(d) Beginning July 1, 2002, the office shall phase in case management for aged, blind, and disabled Medicaid recipients.

As added by P.L.160-2012, SEC.18.

IC 12-8-6.5-11

Emergency rules; reduction in expenditures to reflect 2003 budget act

Sec. 11. The office shall adopt emergency rules under IC 4-22-2-37.1 to achieve the reductions needed to avoid expenditures exceeding the Medicaid appropriation made by P.L.224-2003 in the line item appropriation to the FAMILY AND SOCIAL SERVICES ADMINISTRATION, MEDICAID - CURRENT OBLIGATIONS. To the extent that reductions are made to optional Medicaid services as set forth in 42 U.S.C. 1396 et seq., the reductions may be accomplished on a pro rata basis with each optional service being reduced by a proportionate amount. However, the reductions may not be made in a manner that results in the elimination of any optional Medicaid service.

As added by P.L.160-2012, SEC.18.

IC 12-8-6.5-12

Effect of hospital assessment fees imposed under P.L. 229-2011, SECTION 281

Sec. 12. (a) As used in this section, "SECTION 281" refers to P.L.229-2011, SECTION 281.

(b) Notwithstanding the expiration of SECTION 281, the office of Medicaid policy and planning may:

(1) collect an unpaid hospital assessment fee under SECTION 281 owed by a hospital;

(2) refund a hospital assessment fee paid by the hospital under SECTION 281;

(3) make payments for programs described in subsection (f) of SECTION 281;

(4) make payments to hospitals in accordance with subsection (m) of SECTION 281; and

(5) make payments to private psychiatric institutions in accordance with subsection (o) of SECTION 281;

at any time, including after the expiration of SECTION 281.

(c) The office of Medicaid policy and planning may:

(1) collect an unpaid hospital assessment fee under IC 16-21-10 owed by a hospital;

(2) refund a hospital assessment fee paid by a hospital under IC 16-21-10;

(3) make payments for programs described in IC 16-21-10-8(a);

(4) make payments under IC 16-21-10-11; and

(5) make payments under IC 16-21-10-13;

at any time, including after the hospital assessment fee ceases to be collected under IC 16-21-10.

As added by P.L.205-2013, SEC.181.

IC 12-8-7
Repealed

(Repealed by P.L.253-1997(ss), SEC.44.)

IC 12-8-8

Chapter 8. Expired

(Expired 6-30-2011 by P.L.182-2009(ss), SEC.297.)

IC 12-8-8.5

Chapter 8.5. Divisions and Directors

IC 12-8-8.5-0.3

Legalization of certain actions

Sec. 0.3. (a) Actions taken under IC 12-8-8 (expired), after December 31, 2007, and before March 24, 2008, are legalized and validated to the extent that those actions would have been legal and valid if P.L.113-2008 had been enacted before January 1, 2008.

(b) Actions taken under IC 12-8-8 (expired) after June 30, 2011, are legalized and validated to the extent that those actions would have been legal and valid if IC 12-8-8 had not expired on June 30, 2011.

As added by P.L.160-2012, SEC.19.

IC 12-8-8.5-1

Appointment; termination

Sec. 1. Subject to the approval of the governor, the secretary:

(1) shall appoint each director; and

(2) may terminate the employment of a director.

As added by P.L.160-2012, SEC.19.

IC 12-8-8.5-2

Chief administrator; responsibility

Sec. 2. (a) A director is the chief administrator of the director's division.

(b) A director is responsible to the secretary for the operation and performance of the director's division.

As added by P.L.160-2012, SEC.19.

IC 12-8-8.5-3

Appointing authority

Sec. 3. A director is the appointing authority for the director's division.

As added by P.L.160-2012, SEC.19.

IC 12-8-8.5-4

Rules

Sec. 4. (a) A director may adopt rules under IC 4-22-2 relating to the operation of the director's division and to implement the programs of the director's division.

(b) Whenever a division is required to adopt rules under IC 4-22-2, the director of the division is the statutory authority that adopts the rules.

As added by P.L.160-2012, SEC.19.

IC 12-8-8.5-5

Administrative adjudication; designation of ultimate authority

Sec. 5. (a) A director is the ultimate authority under IC 4-21.5 for purposes of the operation of the director's division and the programs of the director's division.

(b) The director shall consult with the secretary on issues of family, social services, or health policy arising in a proceeding under IC 4-21.5.
As added by P.L.160-2012, SEC.19.

IC 12-8-8.5-6
Budget
Sec. 6. A director is responsible for development and presentation of the budget of the director's division.
As added by P.L.160-2012, SEC.19.

IC 12-8-9
Repealed

(Repealed by P.L.11-1993, SEC.9.)

IC 12-8-10

Chapter 10. Financial Services Group

IC 12-8-10-1

Application of chapter to money of state agencies used to obtain services from grantee agencies

Sec. 1. This chapter applies only to the indicated money of the following state agencies to the extent that the money is used by the agency to obtain services from grantee agencies to carry out the program functions of the agency:

(1) Money appropriated or allocated to a state agency from money received by the state under the federal Social Services Block Grant Act (42 U.S.C. 1397 et seq.).

(2) The division of aging, except this chapter does not apply to money expended under the following:

(A) The following statutes, unless application of this chapter is required by another subdivision of this section:

(i) IC 12-10-6.

(ii) IC 12-10-12.

(B) Epilepsy services.

(3) The division of family resources, for money expended under the following programs:

(A) The child development associate scholarship program.

(B) The dependent care program.

(C) Migrant day care.

(D) The commodities program.

(E) The migrant nutrition program.

(F) Any emergency shelter program.

(G) The energy weatherization program.

(4) The state department of health, for money expended under the following statutes:

(A) IC 16-19-10.

(B) IC 16-38-3.

(5) The group.

(6) All state agencies, for any other money expended for the purchase of services if all the following apply:

(A) The purchases are made under a contract between the state agency and the office of the secretary.

(B) The contract includes a requirement that the office of the secretary perform the duties and exercise the powers described in this chapter.

(C) The contract is approved by the budget agency.

(7) The division of mental health and addiction.

As added by P.L.2-1992, SEC.2. Amended by P.L.2-1993, SEC.76; P.L.4-1993, SEC.30; P.L.5-1993, SEC.43; P.L.40-1994, SEC.17; P.L.24-1997, SEC.18; P.L.108-1997, SEC.6; P.L.215-2001, SEC.33; P.L.141-2006, SEC.29; P.L.145-2006, SEC.66; P.L.181-2006, SEC.51; P.L.1-2007, SEC.112; P.L.146-2008, SEC.383; P.L.113-2014, SEC.33.

IC 12-8-10-2
"Grantee agency" defined

Sec. 2. As used in this chapter, "grantee agency" means a person that receives money directly from a state agency in return for the performance of services.

As added by P.L.2-1992, SEC.2.

IC 12-8-10-3
"Group" defined

Sec. 3. As used in this chapter, "group" refers to the financial services group established by sections of this chapter.

As added by P.L.2-1992, SEC.2.

IC 12-8-10-4
"Purchase of service format" defined

Sec. 4. As used in this chapter, "purchase of service format" means a contract format that has the following features:

(1) Each type of service to be provided under the contract is broken down into measurable units.

(2) A rate of reimbursement for each unit of service to be provided under the contract is established.

(3) The units of service actually provided under the contract are reported by the service provider on a regular basis.

(4) The cost of providing a unit of service under the contract is paid after the unit has been provided.

As added by P.L.2-1992, SEC.2.

IC 12-8-10-5
Establishment

Sec. 5. The financial services group is established within the office of the secretary.

As added by P.L.2-1992, SEC.2. Amended by P.L.108-1997, SEC.7.

IC 12-8-10-6
Selection of grantee agencies to be compensated

Sec. 6. (a) Subject to approval by the budget agency, the agencies subject to this chapter have the exclusive authority to select the grantee agencies to be compensated from the funding sources listed in section 1 of this chapter.

(b) Whenever the group becomes aware that a grantee agency exists that is capable of performing a service for an agency subject to this chapter, the group shall inform the agency of the potential grantee agency.

As added by P.L.2-1992, SEC.2.

IC 12-8-10-7
Procedure for reimbursing grantee agency; purchase of service format or other contract format use; determination

Sec. 7. (a) When a state agency selects a grantee agency under section 6 of this chapter, the state agency shall determine whether the

purchase of service format can be used as the procedure for reimbursing the grantee agency. The state agency has exclusive authority to make this determination, but the state agency shall seek to use the purchase of service format whenever possible.

(b) If a state agency determines that the purchase of service format can be used with a particular grantee agency, the state agency shall notify the group of the state agency's decision. The group shall then follow the procedure described in section 8 of this chapter.

(c) If a state agency determines that the purchase of service format cannot be used with a particular grantee agency, the state agency shall select the contract format that is to be used. If a state agency selects a contract format under this subsection, the state agency shall notify the group of the state agency's decision. The group shall then follow the procedure described in section 8 of this chapter.

(d) Notwithstanding IC 4-13-2-20, IC 12-17-19-19, or any other law, a contract format selected under subsection (b) or (c) may include provisions for advance funding as follows:

(1) For not more than one-sixth (1/6) of the contract amount if the annual contract amount is at least fifty thousand dollars ($50,000).

(2) For not more than one-half (1/2) of the contract amount if the annual contract amount is less than fifty thousand dollars ($50,000).

(3) For interim payments, with subsequent reconciliation of the amounts paid under the contract and the cost of the services actually provided.

As added by P.L.2-1992, SEC.2. Amended by P.L.20-1992, SEC.25; P.L.21-1992, SEC.7; P.L.1-1993, SEC.96; P.L.1-2005, SEC.127.

IC 12-8-10-8

Group procedure; requisites

Sec. 8. (a) When a state agency notifies the group of the selection of a grantee agency and a contract format, the group shall do the following:

(1) Prepare a contract with the grantee agency.

(2) Present the contract to the affected state agency for execution.

(b) A contract prepared by the group under subsection (a) is subject to approval under IC 4-13-2-14.3.

As added by P.L.2-1992, SEC.2.

IC 12-8-10-9

Records of grantee agencies; audits; requirements

Sec. 9. (a) Each grantee agency receiving money under a contract covered by this chapter shall maintain sufficient records to show the following:

(1) The actual cost of services provided under the contract.

(2) The nature and amount of services provided under the contract.

(b) At least every two (2) years the group shall, in the manner

prescribed by the state board of accounts, conduct audits of all grantee agencies that, under a contract under this chapter, receive payment from any of the money described in section 1(2) of this chapter. These audits must include an investigation of the records of the grantee agencies to determine whether the services rendered under the contracts have been in compliance with the terms of the contracts.

(c) This section does not prohibit the state board of accounts from auditing grantee agencies under the board's own authority. The office of the secretary may do either of the following:

(1) Contract with the state board of accounts to conduct audits of grantee agencies.

(2) Require grantee agencies to obtain independent audits of their agencies.

(d) A contract between a state agency and the office of the secretary under section (1)(6) of this chapter may include a provision requiring the group to perform or arrange for the audits described by this section.

As added by P.L.2-1992, SEC.2. Amended by P.L.108-1997, SEC.8; P.L.181-2006, SEC.52; P.L.113-2014, SEC.34.

IC 12-8-10-10

Audits; distribution of copies

Sec. 10. Not more than thirty (30) days after the completion of each audit required by this chapter, the group shall submit a copy of the audit to each of the following:

(1) The state board of accounts.

(2) Each state agency that is a party to a contract covered in the audit.

(3) The legislative council, upon request of the legislative council or when required by federal law. A report submitted under this subdivision must be in electronic format under IC 5-14-6.

(4) The appropriate federal agency, when required by federal law.

As added by P.L.2-1992, SEC.2. Amended by P.L.28-2004, SEC.87.

IC 12-8-11
Repealed

(Repealed by P.L.2-1997, SEC.90.)

IC 12-8-12

Chapter 12. Employment Opportunities for TANF Recipients

IC 12-8-12-1

Purpose

Sec. 1. The purpose of this chapter is to find available employment opportunities for TANF recipients and applicants that will allow the recipients and applicants to gain successful experience in an environment that includes daily work.

As added by P.L.2-1997, SEC.34. Amended by P.L.161-2007, SEC.7.

IC 12-8-12-2

Applicability of chapter

Sec. 2. This chapter applies to all TANF recipients and applicants, except recipients and applicants exempted under rules adopted by the director under IC 4-22-2.

As added by P.L.2-1997, SEC.34. Amended by P.L.161-2007, SEC.8.

IC 12-8-12-3

"Request for proposals" defined

Sec. 3. As used in this chapter, "request for proposals" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

As added by P.L.2-1997, SEC.34.

IC 12-8-12-4

Public-private partnerships

Sec. 4. The director may develop programs in partnership with private employers by issuing requests for proposals to stimulate public-private partnerships to provide employment opportunities to TANF recipients.

As added by P.L.2-1997, SEC.34. Amended by P.L.161-2007, SEC.9.

IC 12-8-12-5

Solicitation of proposals

Sec. 5. The director may solicit proposals to employ TANF recipients through a request for proposals, that must include a statement that an employer desiring to participate in the program under section 4 of this chapter shall do the following:

(1) Provide health care assistance to a TANF recipient hired by the employer under the same standards that apply to other employees. Under this subdivision, the state shall pay only for the recipient's share of the premium associated with the health care assistance. However, the payment of this premium may not exceed the cost that would be paid by the state on behalf of the recipient for Medicaid.

(2) Treat a TANF recipient as the employer would treat a typical employee, including offering the same pay scales and promotion opportunities offered to a typical employee.

As added by P.L.2-1997, SEC.34. Amended by P.L.161-2007,

SEC.10.

IC 12-8-12-6
Powers of director

Sec. 6. The director may do the following:

(1) Establish criteria for a request for proposals to stimulate public-private partnerships to promote employment opportunities for TANF recipients and applicants under this chapter.

(2) Establish sanctions, including the termination of TANF assistance, for a TANF recipient or applicant who refuses to participate in an employment or a job training opportunity offered to TANF recipients or applicants under this chapter.

(3) Establish a procedure to set priorities for the entry of recipients or applicants into job placement and training.

As added by P.L.2-1997, SEC.34. Amended by P.L.161-2007, SEC.11.

IC 12-8-12-7
Adoption of rules

Sec. 7. The director may adopt rules under IC 4-22-2 necessary to implement this chapter.

As added by P.L.2-1997, SEC.34.

IC 12-8-12.5

Chapter 12.5. Expired

(Expired 12-31-2013 by P.L.110-2010, SEC.21.)

IC 12-8-13
Repealed

(Repealed by P.L.102-1998, SEC.1.)

IC 12-8-14

Chapter 14. Family Support Program

IC 12-8-14-1

Establishment and purpose

Sec. 1. The family support program is established to develop a family support policy state plan for the support of families of persons with disabilities and for persons with disabilities, including children with special health care needs or emotional disorders. The objectives of the family support program include the following:

(1) Assist families to care for persons with disabilities in the persons' own homes, including implementation of proposals regarding personal attendant services.

(2) Assist persons with disabilities to make decisions for themselves.

(3) Allow a person with a disability to live separately from the person's family, if the person with a disability so chooses.

As added by P.L.272-1999, SEC.26.

IC 12-8-14-2

Requirements of family support policy state plan

Sec. 2. The family support policy state plan must do the following:

(1) Focus on the family and the community of the person with a disability, including the parents of the person with a disability.

(2) Encourage a partnership among families, consumers, and professionals in the development of an individual family support service plan that begins within a reasonable time and that is periodically reviewed.

(3) Promote the participation of families of persons with disabilities in local step ahead councils.

(4) Foster the involvement of families and persons with disabilities in decision making, needs assessment, and providing services.

(5) Provide for the establishment of a systematic process for admission to participation in the family support program and other programs that help individuals and families identify and satisfy their health, education, social service, and other needs and choices.

(6) Encourage program flexibility as unique family needs change and provide flexible program funding for alternative choices.

(7) Examine funding mechanisms, including sliding fee scales and annual budgeting processes for the delivery of services.

(8) Promote a system of funding for family support services that follows the person receiving the services.

(9) Encourage interagency collaboration among different agencies and programs at the community level, with coordination and review by the office of the secretary of family and social services to ensure statewide coverage.

(10) Provide for the establishment of information and referral

systems to determine gaps in services in the state and to develop a resource network that includes the public and private sectors.

(11) Encourage outreach to inform families and consumers of services and public and private agencies about the family support program. The outreach includes publishing a brochure listing service options and defining family rights.

(12) Promote training of personnel providing individualized support services and training of families and consumers on consumer empowerment and service availability.

(13) Promote a community centered approach to include the following:

(A) Available services.

(B) Public and private sector resources.

(C) Governmental agencies.

(D) Public and private agencies providing family support services.

(14) Promote integration of a person with a disability into the community.

As added by P.L.272-1999, SEC.26.

IC 12-8-14-3

Administration

Sec. 3. (a) The secretary of family and social services shall administer the family support program to produce a state plan, based on limits of appropriations, to promote the statewide availability of services.

(b) The state plan required by subsection (a) must include the following objectives:

(1) Implementing a fair, swift, and convenient process for determination of family eligibility.

(2) Assuring that all organizations implementing individualized support services will incorporate a family focus in providing family support programs.

(3) Using existing local organizations as the single point of entry for families seeking services.

(4) Using existing public and private local organizations, including the county step ahead councils, parent advisory groups, and natural and informal networks of family and friends, to carry out the daily operations of the family support program.

(5) Providing a method for contracting with agencies, grantees, or vendors to provide individualized support services, especially in regions of Indiana that are inadequately served.

(6) Developing a method for providing technical assistance to agencies and organizations, including consumer groups, that are developing or offering individualized support services to assure the coordination of publicly funded programs and generic services and to assure that other publicly funded programs and agencies are not supplanted.

(7) Using available state, regional, and local media to support

outreach to families.

(8) Providing due process hearings on eligibility and other decisions affecting services.

(9) Exploring sources of and opportunities for federal participation in and funding of services for families of persons with disabilities and persons with disabilities.

(10) Giving priority to programs preventing and ameliorating the impact of disabilities on families.

As added by P.L.272-1999, SEC.26.

IC 12-8-14-4
Annual report

Sec. 4. The office of the secretary shall submit an annual report on the family support program to the governor and to the general assembly before July 1 of each year. A report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.

As added by P.L.272-1999, SEC.26. Amended by P.L.28-2004, SEC.88.

IC 12-8-14-5
Services permitted

Sec. 5. Services to support families of persons with disabilities and persons with disabilities may include services available within the division of family resources, the division of disability and rehabilitative services, the division of aging, the division of mental health and addiction, the state department of health, the department of education, the department of workforce development, and the department of correction, including case management and service coordination.

As added by P.L.272-1999, SEC.26. Amended by P.L.215-2001, SEC.34; P.L.141-2006, SEC.30; P.L.145-2006, SEC.67; P.L.1-2007, SEC.113.

IC 12-8-14-6
Family support council

Sec. 6. (a) The family support council is established. The family support council consists of twelve (12) members. The governor shall appoint the members of the family support council. A member may be removed from the council by the governor and serves at the governor's pleasure.

(b) At least seven (7) of the members of the family support council must be individuals who are eligible for family support services.

(c) The family support council must include a representative of the governor's planning council on people with disabilities.

(d) The family support council shall meet at least quarterly to monitor the family support policy state plan.

(e) The family support council shall:

(1) communicate information and recommendations concerning family support to the secretary; and

(2) assist in developing state policies and programs that have an impact on individuals with disabilities and their families.

(f) The secretary shall designate personnel to assist the family support council in performing the functions authorized by this section.

As added by P.L.272-1999, SEC.26.

IC 12-8-14-7

Majority of votes required for action

Sec. 7. The affirmative votes of a majority of the voting members appointed to the family support council are required for the family support council to take action on any measure.

As added by P.L.272-1999, SEC.26.

IC 12-9

ARTICLE 9. DIVISION OF DISABILITY AND REHABILITATIVE SERVICES

IC 12-9-1

Chapter 1. Establishment of Division

IC 12-9-1-1

Establishment

Sec. 1. The division of disability and rehabilitative services is established.

As added by P.L.2-1992, SEC.3. Amended by P.L.4-1993, SEC.31; P.L.5-1993, SEC.44; P.L.141-2006, SEC.31.

IC 12-9-1-2

Application of IC 12-8-8.5

Sec. 2. IC 12-8-8.5 applies to the division.

As added by P.L.2-1992, SEC.3. Amended by P.L.160-2012, SEC.20.

IC 12-9-1-3

Bureaus within division

Sec. 3. The division consists of the following bureaus:

(1) Disability determination bureaus required or permitted under IC 12-9-6.

(2) The rehabilitation services bureau established by IC 12-12-1-1.

(3) The bureau of developmental disabilities services established by IC 12-11-1.1-1.

(4) The bureau of quality improvement services established by IC 12-12.5-1-1.

(5) The bureau of child development services established by IC 12-12.7-1-1.

As added by P.L.2-1992, SEC.3. Amended by P.L.4-1993, SEC.32; P.L.5-1993, SEC.45; P.L.272-1999, SEC.27; P.L.243-2003, SEC.8; P.L.93-2006, SEC.8; P.L.141-2006, SEC.32; P.L.1-2007, SEC.114.

IC 12-9-2

Chapter 2. Director of Division

IC 12-9-2-1

Appointment of director

Sec. 1. The division shall be administered by a director appointed under IC 12-8-8.5-1.

As added by P.L.2-1992, SEC.3. Amended by P.L.160-2012, SEC.21.

IC 12-9-2-2

Application of IC 12-8-8.5

Sec. 2. IC 12-8-8.5 applies to the director.

As added by P.L.2-1992, SEC.3. Amended by P.L.160-2012, SEC.22.

IC 12-9-2-3

Powers and duties

Sec. 3. (a) The director may do the following:

(1) Employ experts and consultants to assist the division in carrying out the division's functions.

(2) Utilize, with their consent, the services and facilities of other state agencies without reimbursement.

(3) Accept in the name of the division, for use in carrying out the functions of the division, money or property received by gift, bequest, or otherwise.

(4) Accept voluntary and uncompensated services.

(5) Expend money made available to the division according to policies enforced by the budget agency.

(6) Adopt rules under IC 4-22-2 necessary to carry out the functions of the division.

(7) Establish and implement the policies and procedures necessary to carry out the functions of the division.

(8) Issue orders under IC 4-21.5-3-6.

(9) Perform any other acts necessary to carry out the functions of the division.

(b) The director shall compile information and statistics from each bureau concerning the ethnicity and gender of a program or service recipient. The director may adopt rules under IC 4-22-2 necessary to implement this subsection.

As added by P.L.2-1992, SEC.3. Amended by P.L.42-1995, SEC.21; P.L.142-1995, SEC.2; P.L.229-2011, SEC.116; P.L.153-2011, SEC.4.

IC 12-9-2-4

Hiring personnel

Sec. 4. The director may, with the approval of the budget agency, hire the personnel necessary to perform the duties of the division.

As added by P.L.2-1992, SEC.3.

IC 12-9-2-5

Repealed

(Repealed by P.L.188-2013, SEC.6.)

IC 12-9-2-6
Contractual powers and requirements

Sec. 6. (a) The director may act for the division in entering into contracts for the disbursal of money and the providing of service for approved community mental retardation and other developmental disability centers where constructed and operated or maintained by private nonprofit organizations, a local public agency, or any other state agency that the director determines to be best suited to advance programs for individuals with developmental disabilities.

(b) Before entering into a contract under this section, the director shall submit the contract to the attorney general for approval as to form and legality.

(c) A contract under this section must do the following:

(1) Specify the services to be provided and the client populations to whom services must be provided.

(2) Specify that the definition of developmental disability set forth in IC 12-7-2-61 must be used to determine the eligibility of an individual for reimbursement of the center by the division for the center's services for individuals with a developmental disability. The division shall reimburse the centers at rates established by rule.

(3) Provide for a reduction in funding for failure to comply with terms of the contract.

As added by P.L.2-1992, SEC.3. Amended by P.L.24-1997, SEC.19; P.L.99-2007, SEC.58.

IC 12-9-3

Chapter 3. Personnel of Division

IC 12-9-3-1

Repealed

(Repealed by P.L.6-2012, SEC.87.)

IC 12-9-3-2

Criminal or civil proceedings against division personnel as result of official acts; defense by state; exceptions

Sec. 2. (a) If a member, an officer, or an employee of the division is accused of an offense or sued for civil damages because of an act performed within the course of the individual's employment or because of an act performed under the authority or order of a superior officer, the attorney general shall defend the individual in an action for civil damages. If the action or proceeding is criminal in nature, the governor shall designate counsel to represent and defend the accused and the state is financially responsible for the expense of the defense.

(b) This section does not do either of the following:

(1) Deprive an individual of the right to select defense counsel of the individual's choice at the individual's expense.

(2) Relieve any person from responsibility in civil damages.

As added by P.L.2-1992, SEC.3.

IC 12-9-4

Chapter 4. Division Advisory Council

IC 12-9-4-1

"Council" defined

Sec. 1. As used in this chapter, "council" refers to the division of disability and rehabilitative services advisory council established by this chapter.

As added by P.L.2-1992, SEC.3. Amended by P.L.4-1993, SEC.33; P.L.5-1993, SEC.46; P.L.141-2006, SEC.33.

IC 12-9-4-2

Establishment of advisory council

Sec. 2. The division of disability and rehabilitative services advisory council is established.

As added by P.L.2-1992, SEC.3. Amended by P.L.4-1993, SEC.34; P.L.5-1993, SEC.47; P.L.141-2006, SEC.34.

IC 12-9-4-3

Membership

Sec. 3. The council consists of the following eleven (11) members:

(1) The director.

(2) Ten (10) individuals:

(A) appointed by the secretary; and

(B) who have a recognized knowledge of or interest in the programs administered by the division.

As added by P.L.2-1992, SEC.3.

IC 12-9-4-4

Term of office

Sec. 4. Each member of the council appointed under section 3(2) of this chapter has a fixed term as provided in IC 12-8-2.5-4.

As added by P.L.2-1992, SEC.3. Amended by P.L.160-2012, SEC.23.

IC 12-9-4-5

Presiding officer

Sec. 5. The director serves as presiding officer of the council.

As added by P.L.2-1992, SEC.3.

IC 12-9-4-6

Meetings

Sec. 6. The council shall meet at least monthly and is subject to special meetings at the call of its presiding officer.

As added by P.L.2-1992, SEC.3.

IC 12-9-4-7

Application of IC 12-8-2.5

Sec. 7. IC 12-8-2.5 applies to the council.

As added by P.L.2-1992, SEC.3. Amended by P.L.160-2012, SEC.24.

IC 12-9-5

Chapter 5. Duties of Division

IC 12-9-5-1

Administration of appropriated or allocated funds

Sec. 1. The division shall administer money appropriated or allocated to the division by the state, including money appropriated or allocated from the following:

(1) The federal Vocational Rehabilitation Act (29 U.S.C. 701).

(2) The federal Social Services Block Grant in-home services for the elderly and disabled (42 U.S.C. 1397 et seq.).

(3) The federal Randolph Sheppard Act (20 U.S.C. 107 et seq.).

(4) Medicaid waiver in-home services for the elderly and disabled (42 U.S.C. 1396 et seq.) for treatment of developmental disabilities.

(5) Office of Disability Determination (42 U.S.C. 1302 and 42 U.S.C. 1383).

(6) Improving Access to Assistive Technology for Individuals with Disabilities Act (29 U.S.C. 3001 et seq.).

(7) The federal Social Security Act Payments for Vocational Rehabilitation Services (42 U.S.C. 422).

(8) Part C of the federal Individuals with Disabilities Education Act, Subchapter III (20 U.S.C. 1431 et seq.).

(9) Money appropriated or allocated to the division to administer a program under this title.

(10) Other funding sources that are designated by the general assembly or that are available from the federal government under grants that are consistent with the duties of the division.

As added by P.L.2-1992, SEC.3. Amended by P.L.93-2006, SEC.9; P.L.141-2006, SEC.35; P.L.1-2007, SEC.115.

IC 12-9-5-2

Repealed

(Repealed by P.L.138-1993, SEC.4.)

IC 12-9-5-3

General administrative duties

Sec. 3. The division shall administer the following programs:

(1) Programs established under any of the following statutes:

(A) This article.

(B) IC 12-11.

(C) IC 12-12.

(D) IC 12-12.5.

(E) IC 12-12.7.

(2) Programs under the following statutes, to the extent the division has responsibilities for programs under those statutes:

(A) IC 12-24.

(B) IC 12-26.

(C) IC 12-27.

(D) IC 12-28.

(E) IC 12-29.

(3) Supported employment for a person with developmental disabilities.

(4) Epilepsy service centers program.

(5) Epilepsy clinic program.

(6) Medicaid waivers for in-home services for treatment of developmental disabilities.

As added by P.L.2-1992, SEC.3. Amended by P.L.243-2003, SEC.9; P.L.93-2006, SEC.10; P.L.141-2006, SEC.36; P.L.1-2007, SEC.116.

IC 12-9-5-4

Education resources for children with disabilities; application of IC 20-35-2

Sec. 4. IC 20-35-2 applies to the operation of each education program for children with disabilities (as defined in IC 20-35-1-2) conducted by a state owned and operated developmental center or furnished under an agreement with the division.

As added by P.L.2-1992, SEC.3. Amended by P.L.23-1993, SEC.42; P.L.1-2005, SEC.128.

IC 12-9-5-5

Approved services under federal waiver

Sec. 5. (a) Notwithstanding any other law:

(1) home health agencies licensed under IC 16-27-1 are approved to provide home health services; and

(2) personal services agencies licensed under IC 16-27-4 are approved to provide personal services;

under any federal waiver granted to the state under 42 U.S.C. 1315 or 42 U.S.C. 1396n.

(b) In determining whether to approve an entity described in subsection (a) to provide services for a program administered by the office of the secretary, the office of the secretary may use the survey performed by the state department of health in licensing the entity.

As added by P.L.212-2005, SEC.2. Amended by P.L.141-2006, SEC.37.

IC 12-9-6

Chapter 6. Disability Determination Bureaus

IC 12-9-6-1

Social Security Disability Insurance and Supplemental Security Income claims; disability determination bureau

Sec. 1. The division may, through agreement with the federal government, operate a disability determination bureau that adjudicates claims for Social Security Disability Insurance and Supplemental Security Income.

As added by P.L.2-1992, SEC.3.

IC 12-9-6-2

Social Security Administration interim assistance agreement; disability determination bureau

Sec. 2. The division may, through agreement with the federal government, operate a disability determination bureau that enters into an interim assistance agreement with the Social Security Administration under 42 U.S.C. 1302 and 42 U.S.C. 1383.

As added by P.L.2-1992, SEC.3.

IC 12-9-6-3

Long term disability benefit entitlement adjudication; disability determination bureau

Sec. 3. The division shall operate a disability determination bureau that adjudicates whether an employee is entitled to long term disability benefits under either of the following:

(1) IC 5-10-8-7(d).

(2) The rules adopted by the state personnel department to implement the long term disability program under IC 5-10-8-7(d).

As added by P.L.2-1992, SEC.3.

IC 12-9.1

ARTICLE 9.1. DIVISION OF AGING

IC 12-9.1-1

Chapter 1. Establishment of Division

IC 12-9.1-1-1

Establishment

Sec. 1. The division of aging is established.

As added by P.L.141-2006, SEC.38.

IC 12-9.1-1-2

Application of IC 12-8-8.5

Sec. 2. IC 12-8-8.5 applies to the division.

As added by P.L.141-2006, SEC.38. Amended by P.L.160-2012, SEC.25.

IC 12-9.1-1-3

Bureau within division

Sec. 3. The bureau of aging and in-home services established by IC 12-10-1-1 is part of the division.

As added by P.L.141-2006, SEC.38.

IC 12-9.1-2

Chapter 2. Director of Division

IC 12-9.1-2-1

Appointment of director

Sec. 1. The division shall be administered by a director appointed under IC 12-8-8.5-1.

As added by P.L.141-2006, SEC.38. Amended by P.L.160-2012, SEC.26.

IC 12-9.1-2-2

Application of IC 12-8-8.5

Sec. 2. IC 12-8-8.5 applies to the director.

As added by P.L.141-2006, SEC.38. Amended by P.L.160-2012, SEC.27.

IC 12-9.1-2-3

Powers and duties

Sec. 3. (a) The director may do the following:

(1) Employ experts and consultants to assist the division in carrying out the division's functions.

(2) Use, with their consent, the services and facilities of other state agencies without reimbursement.

(3) Accept in the name of the division, for use in carrying out the functions of the division, money or property received by gift, bequest, or otherwise.

(4) Accept voluntary and uncompensated services.

(5) Expend money made available to the division according to policies enforced by the budget agency.

(6) Adopt rules under IC 4-22-2 necessary to carry out the functions of the division.

(7) Establish and implement the policies and procedures necessary to carry out the functions of the division.

(8) Issue orders under IC 4-21.5-3-6.

(9) Perform any other acts necessary to carry out the functions of the division.

(b) The director shall compile information and statistics from each bureau concerning the ethnicity and gender of a program or service recipient. The director may adopt rules under IC 4-22-2 necessary to implement this subsection.

As added by P.L.141-2006, SEC.38. Amended by P.L.229-2011, SEC.117; P.L.153-2011, SEC.5.

IC 12-9.1-2-4

Hiring personnel

Sec. 4. The director may, with the approval of the budget agency, hire the personnel necessary to perform the duties of the division.

As added by P.L.141-2006, SEC.38.

IC 12-9.1-3

Chapter 3. Personnel of Division

IC 12-9.1-3-1

Repealed

(Repealed by P.L.6-2012, SEC.88.)

IC 12-9.1-3-2

Criminal or civil proceedings against division personnel as result of official acts; defense by state; exceptions

Sec. 2. (a) If a member, an officer, or an employee of the division is accused of an offense or sued for civil damages because of an act performed:

(1) within the course of the individual's employment; or

(2) under the authority or order of a superior officer;

the attorney general shall defend the individual in an action for civil damages. If the action or proceeding is criminal in nature, the governor shall designate counsel to represent and defend the accused, and the state is financially responsible for the expense of the defense.

(b) This section does not do either of the following:

(1) Deprive an individual of the right to select defense counsel of the individual's choice at the individual's expense.

(2) Relieve any person from responsibility in civil damages.

As added by P.L.141-2006, SEC.38.

IC 12-9.1-4

Chapter 4. Duties of Division

IC 12-9.1-4-1

Administration of appropriated or allocated funds

Sec. 1. The division shall administer money appropriated or allocated to the division by the state, including money appropriated or allocated from the following:

(1) The federal Older Americans Act (42 U.S.C. 3001 et seq.).

(2) The United States Department of Agriculture (7 U.S.C. 612C et seq.).

(3) Medicaid waiver in-home services for the elderly and disabled (42 U.S.C. 1396 et seq.) for treatment of medical conditions.

(4) Money appropriated or allocated to the division to administer a program under this title.

(5) Other funding sources that are designated by the general assembly or available from the federal government under grants that are consistent with the duties of the division.

As added by P.L.141-2006, SEC.38.

IC 12-9.1-4-2

Administrative duties

Sec. 2. The division shall administer the following programs:

(1) Programs established under any of the following statutes:

(A) This article.

(B) IC 12-10.

(2) Programs under IC 12-30, to the extent the division has responsibilities for programs under IC 12-30.

(3) Medicaid waivers for in-home services for treatment of medical conditions.

As added by P.L.141-2006, SEC.38.

IC 12-9.1-4-3

Approved services under federal waiver

Sec. 3. Notwithstanding any other law:

(1) home health agencies licensed under IC 16-27-1 are approved to provide home health services; and

(2) personal services agencies licensed under IC 16-27-4 are approved to provide personal services;

under any federal waiver granted to the state under 42 U.S.C. 1315 or 42 U.S.C. 1396n that provides services for treatment of medical conditions.

As added by P.L.141-2006, SEC.38.

IC 12-10

ARTICLE 10. AGING SERVICES

IC 12-10-1

Chapter 1. Bureau of Aging Services

IC 12-10-1-1

Establishment of bureau

Sec. 1. The bureau of aging and in-home services is established within the division.

As added by P.L.2-1992, SEC.4. Amended by P.L.4-1993, SEC.35; P.L.5-1993, SEC.48.

IC 12-10-1-2

Purpose

Sec. 2. The purpose of the bureau is to assist the constantly increasing number of aged in:

(1) maintaining self-sufficiency and personal well-being with the dignity to which the years of labor entitle the person; and

(2) realizing the aged person's maximum potential as a creative and productive individual.

As added by P.L.2-1992, SEC.4.

IC 12-10-1-3

Administration of programs

Sec. 3. The bureau shall administer the following programs:

(1) The federal Older Americans Act under IC 12-9.1-4-1.

(2) Area agencies on aging services under this article.

(3) Adult protective services under IC 12-10-3.

(4) Room and board assistance and assistance to residents in county homes under IC 12-10-6.

(5) Adult guardianship program under IC 12-10-7.

(6) Community and home options for the elderly and individuals with a disability under IC 12-10-10.

(7) Nursing home preadmission screening under IC 12-10-12.

(8) Long term care advocacy under IC 12-10-13.

(9) Nutrition services and home delivered meals.

(10) Title III B supportive services.

(11) Title III D in-home services.

(12) Aging programs under the Social Services Block Grant.

(13) United States Department of Agriculture elderly feeding program.

(14) Title V senior employment.

(15) PASARR under older adult services.

As added by P.L.2-1992, SEC.4. Amended by P.L.24-1997, SEC.20; P.L.243-2003, SEC.10; P.L.141-2006, SEC.39; P.L.99-2007, SEC.59.

IC 12-10-1-4

Duties

Sec. 4. The bureau shall perform the following duties:

(1) Provide a comprehensive and coordinated service system for Indiana's aging population, giving high priority to those individuals in greatest need.

(2) Conduct studies and research into the needs and problems of the aging.

(3) Ensure participation by the aging in the planning and operation of all phases of the system.

(4) Provide a focal point for advocacy, coordination, monitoring, and evaluation of programs for the aging and the aged.

(5) Provide for the performance of any other functions required by regulations established under the Older Americans Act (42 U.S.C. 3001 et seq.).

(6) Function as the sole state agency to develop a comprehensive plan to meet the needs of the aged.

(7) Evaluate programs, services, and facilities for the aged and determine the extent to which those programs, services, and facilities meet the needs of the aged.

(8) Coordinate programs, services, and facilities furnished for the aged by state agencies and make recommendations regarding those programs, services, and facilities to the governor and the general assembly.

(9) Receive and disburse federal money made available for providing services to the aged or related purposes.

(10) Administer any state plan for the aging required by federal law.

(11) Provide consultation and assistance to communities and groups developing local services for the aged.

(12) Promote community education regarding the problems of the aged through institutes, publications, radio, television, and the press.

(13) Cooperate with agencies of the federal government in studies and conferences designed to examine the needs of the aged and prepare programs and facilities to meet those needs.

(14) Establish and maintain information and referral sources throughout Indiana when not provided by other agencies.

(15) Act, in accordance with regulations established under the Older Americans Act (42 U.S.C. 3001 et seq.), as the agent for providing state money to the area agencies on aging designated in each planning and service region in Indiana.

(16) Initiate, evaluate, and provide assistance for improving programs in cooperation with all other state agencies having concerns or responsibility for the aged.

(17) Conduct an annual conference on the problems of the aging and the aged.

(18) Designate area agencies on aging in each planning and service region in Indiana.

(19) Examine the needs of the aged and prepare programs and facilities to meet those needs.

(20) Issue orders under IC 4-21.5-3-6 when necessary in accordance with section 7 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.153-2011, SEC.6.

IC 12-10-1-5

Coordination of services with area agencies

Sec. 5. In carrying out the bureau's duties under this chapter, the bureau shall coordinate service delivery with the area agencies on aging.

As added by P.L.2-1992, SEC.4.

IC 12-10-1-6

Area agencies; duties

Sec. 6. (a) The area agencies on aging designated by the bureau in each planning and service region shall do the following:

(1) Determine the needs and resources of the aged in the area.

(2) Coordinate, in cooperation with other agencies or organizations in the area, region, district, or county, all programs and activities providing health, recreational, educational, or social services for the aged.

(3) Secure local matching money from public and private sources to provide, improve, or expand the sources available to meet the needs of the aged.

(4) Develop, in cooperation with the division and in accordance with the regulations of the commissioner of the federal Administration on Aging, an area plan for each planning and service area to provide for the following:

(A) A comprehensive and coordinated system for the delivery of services needed by the aged in the area.

(B) The collection and dissemination of information and referral sources.

(C) The effective and efficient use of all resources meeting the needs of the aged.

(D) The inauguration of new services and periodic evaluation of all programs and projects delivering services to the aged, with special emphasis on the low income and minority residents of the planning and service area.

(E) The establishment, publication, and maintenance of a toll free telephone number to provide information, counseling, and referral services for the aged residents of the planning and service area.

(5) Conduct case management (as defined in IC 12-10-10-1).

(6) Perform any other functions required by regulations established under the Older Americans Act (42 U.S.C. 3001 et seq.).

(b) The division shall pay the costs associated with the toll free telephone number required under subsection (a).

As added by P.L.2-1992, SEC.4. Amended by P.L.150-1995, SEC.4.

IC 12-10-1-7

Issuance of citation for violations; requirements; remedies; considerations in determination of remedy

Sec. 7. (a) Upon a determination by the bureau that a provider has violated this article or a rule adopted under this article, the director shall issue a citation under IC 4-21.5-3-6 to the provider. The citation must state the following:

(1) The nature of the violation.

(2) The classification of the violation.

(3) The corrective actions required of the provider to remedy the breach and to protect clients of the provider.

(4) Any penalty imposed on the provider.

(b) A person aggrieved by a citation issued under this section may request a review under IC 4-21.5-3-7. If a request for a hearing is not filed within the fifteen (15) day period, the determination contained in the citation is final.

(c) The bureau may impose the following remedies for a violation of this article or a rule adopted under this article:

(1) Issuance of an order for immediate correction of the violation.

(2) Imposition of a fine not to exceed ten thousand dollars ($10,000).

(3) Suspension of new clients by the provider for a period not to exceed ninety (90) days.

(4) Revocation of the provider's license or issuance of a probationary license.

(5) A requirement that the provider comply with any plan of correction approved or directed by the division.

(d) In determining appropriate remedies under this section for a violation, the bureau shall consider the following:

(1) Whether the violation occurred for reasons beyond the provider's control.

(2) Whether the provider has demonstrated that the provider has taken the appropriate steps to reasonably ensure that the violation will not recur.

(3) The history of violations by the provider.

(4) The effect of the violation on the client.

(5) The degree of the violation.

As added by P.L.153-2011, SEC.7.

IC 12-10-2

Chapter 2. Commission on Aging

IC 12-10-2-1

"Commission" defined

Sec. 1. As used in this chapter, "commission" refers to the Indiana state commission on aging established by this chapter.

As added by P.L.2-1992, SEC.4.

IC 12-10-2-2

Establishment of commission

Sec. 2. The Indiana state commission on aging is established within the division.

As added by P.L.2-1992, SEC.4.

IC 12-10-2-3

Membership

Sec. 3. (a) The commission consists of sixteen (16) members.

(b) Not more than eight (8) members may be from the same political party. The members must be Indiana residents who are interested in the problems of the aging and the aged.

(c) The governor shall appoint the members of the commission, using the following geographical distribution formula:

(1) One (1) member from each congressional district.

(2) The balance of the members appointed at large. However, not more than two (2) residents of the same county may be appointed as members of the commission.

As added by P.L.2-1992, SEC.4.

IC 12-10-2-4

Term of office; termination

Sec. 4. (a) The term of a member of the commission is four (4) years. The term of a member filling a vacancy is for the remainder of the unexpired term.

(b) The term of a member of the commission expires July 1, but a member continues in office until a successor is appointed.

(c) The governor may terminate the appointment of a member of the commission by notifying the member, the chairman of the commission, and the director.

As added by P.L.2-1992, SEC.4.

IC 12-10-2-5

Executive committee; election

Sec. 5. At its first meeting of each year, the commission shall elect a chairman, three (3) vice chairmen, and a secretary to serve for one (1) year. These officers are the executive committee of the commission.

As added by P.L.2-1992, SEC.4.

IC 12-10-2-6

Quorum

Sec. 6. (a) Nine (9) members of the commission constitute a quorum for the transaction of the business of the commission.

(b) Approval by nine (9) members of the commission is required for any action to be taken by the commission.

As added by P.L.2-1992, SEC.4.

IC 12-10-2-7

Duties

Sec. 7. The commission shall do the following:

(1) Encourage the study and discussion of the problems of the aging and the aged.

(2) Promote the organization of and officially recognize voluntary councils for the study and discussion of problems of the aging and the aged.

(3) Assist the division in the development of a comprehensive plan to meet the needs of the aged.

As added by P.L.2-1992, SEC.4.

IC 12-10-2-8

Travel and other expenses; per diem

Sec. 8. Each member of the commission, each consultant to the commission, and each member of any advisory council established by the commission is entitled to the following:

(1) Reimbursement for official traveling expenses and other expenses, as provided in the state travel policy and procedures established by the Indiana department of administration and approved by the budget agency.

(2) Salary per diem, as provided in IC 4-10-11-2.1(b), for each day engaged in the official business of the commission.

As added by P.L.2-1992, SEC.4.

IC 12-10-3

Chapter 3. Adult Protective Services

IC 12-10-3-1

"Adult protective services unit" defined

Sec. 1. As used in this chapter, "adult protective services unit" refers to the entity with whom the division contracts to carry out the duties listed in section 8 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.21-1996, SEC.2.

IC 12-10-3-2

"Endangered adult" defined

Sec. 2. (a) Except as provided in subsection (b), as used in this chapter, "endangered adult" means an individual who is:

(1) at least eighteen (18) years of age;

(2) incapable by reason of mental illness, mental retardation, dementia, habitual drunkenness, excessive use of drugs, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and

(3) harmed or threatened with harm as a result of:

(A) neglect;

(B) battery; or

(C) exploitation of the individual's personal services or property.

(b) For purposes of IC 12-10-3-17, IC 35-42-2-1, and IC 35-46-1-13, "endangered adult" means an individual who is:

(1) at least eighteen (18) years of age;

(2) incapable by reason of mental illness, mental retardation, dementia, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and

(3) harmed or threatened with harm as a result of:

(A) neglect; or

(B) battery.

(c) An individual is not an endangered adult solely:

(1) for the reason that the individual is being provided spiritual treatment in accordance with a recognized religious method of healing instead of specified medical treatment if the individual would not be considered to be an endangered adult if the individual were receiving the medical treatment; or

(2) on the basis of being physically unable to provide self care when appropriate care is being provided.

As added by P.L.2-1992, SEC.4. Amended by P.L.77-1992, SEC.1; P.L.24-1997, SEC.21; P.L.281-2003, SEC.1.

IC 12-10-3-3

"Governmental entity" defined

Sec. 3. As used in this chapter, "governmental entity" means an office or a department that is under the direct supervision of a local

elected official or a county office.
As added by P.L.2-1992, SEC.4. Amended by P.L.4-1993, SEC.36; P.L.5-1993, SEC.49.

IC 12-10-3-4
"Life threatening emergency" defined

Sec. 4. As used in this chapter, "life threatening emergency" means a situation in which:

(1) a severe threat to the life or health of an endangered adult exists;

(2) immediate care or treatment is required to alleviate that threat; and

(3) the endangered adult is unable to provide or obtain the necessary care or treatment.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-5
"Protective services" defined

Sec. 5. As used in this chapter, "protective services" refers to available medical, psychiatric, residential, and social services that are necessary to protect the health or safety of an endangered adult.
As added by P.L.2-1992, SEC.4.

IC 12-10-3-6
"Reason to believe" defined

Sec. 6. For the purposes of this chapter, an individual has "reason to believe" that a particular adult is an endangered adult if the individual has been presented with evidence that, if presented to an individual of similar background and training, would cause the individual to believe that the adult is an endangered adult.
As added by P.L.2-1992, SEC.4.

IC 12-10-3-7
Contracting for services

Sec. 7. (a) The division shall provide coverage for the services required in each county under this chapter and may contract with:

(1) a prosecuting attorney;

(2) a prosecuting attorney to perform part of the services and a governmental entity qualified to perform the remainder of the services required; or

(3) if a prosecuting attorney decides not to enter into a contract, a governmental entity qualified to provide the services required.

(b) The contracts entered into by the division under this section must specify that the notification provisions described in sections 21(4) and 28(b)(5) of this chapter must be followed.

(c) A prosecuting attorney who is contracted to provide services under this section may perform services under this chapter in accordance with subsection (d) and (e).

(d) Except as provided in subsection (e), a prosecuting attorney who has contracted to provide services under this section may

provide services in another county if:

(1) the prosecuting attorney of the other county has not entered into a contract with the division to provide services; or

(2) the prosecuting attorney of the other county requests the prosecuting attorney to provide services.

(e) Services provided by a prosecuting attorney who is providing services in another county under this section may include the investigation of matters related to the abuse, neglect, or exploitation of an endangered adult. However, a prosecuting attorney who is providing services in another county under this section may not initiate any judicial proceeding (including seeking a temporary restraining order, an order for protection, or a similar order from a court) in the other county.

As added by P.L.2-1992, SEC.4. Amended by P.L.110-1996, SEC.1; P.L.21-1996, SEC.3; P.L.116-2007, SEC.1.

IC 12-10-3-8

Duties of adult protective services unit having reason to believe individual is endangered adult

Sec. 8. If the adult protective services unit has reason to believe that an individual is an endangered adult, the adult protective services unit shall do the following:

(1) Investigate the complaint or cause the complaint to be investigated by a law enforcement or other agency and make a determination as to whether the individual reported is an endangered adult.

(2) Upon a determination that an individual is an endangered adult under this chapter, do the following:

(A) Initiate procedures that the adult protective services unit determines are necessary, based on an evaluation of the needs of the endangered adult, to protect the endangered adult.

(B) Coordinate and cooperate with the division or other appropriate person to obtain protective services for the endangered adult, including the development of a plan in cooperation with the endangered adult, whereby the least restrictive protective services necessary to protect the endangered adult will be made available to the endangered adult.

(C) Monitor the protective services provided the endangered adult to determine the effectiveness of the services.

(D) Comply with the notification requirements described in sections 21(4) and 28(b)(5) of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.110-1996, SEC.2.

IC 12-10-3-9

Duty to report endangered adult

Sec. 9. (a) An individual who believes or has reason to believe that another individual is an endangered adult shall make a report under this chapter.

(b) If an individual is required to make a report under this chapter in the individual's capacity as a member of the staff of a medical or other public or private institution, school, hospital, facility, or agency, the individual shall immediately notify the individual in charge of the institution, school, hospital, facility, or agency, or the individual's designated agent, who also becomes responsible to report or cause a report to be made.

(c) This section does not relieve an individual of the obligation to report on the individual's own behalf, unless a report has already been made to the best of the individual's belief.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-10

Reports; communication; contents

Sec. 10. (a) Each endangered adult report made under this chapter shall be communicated immediately to at least one (1) of the following:

(1) The adult protective services unit.

(2) A law enforcement agency.

(3) The division by telephone on the statewide toll free telephone number established under section 12 of this chapter.

(b) A law enforcement agency that receives an endangered adult report shall immediately communicate the report to the adult protective services unit and the unit shall notify the division of the report.

(c) Reports must include as much of the following information as is known:

(1) The name, age, and address of the endangered adult.

(2) The names and addresses of family members or other persons financially responsible for the endangered adult's care or other individuals who may be able to provide relevant information.

(3) The apparent nature and extent of the alleged neglect, battery, or exploitation and the endangered adult's physical and mental condition.

(4) The name, address, and telephone number of the reporter and the basis of the reporter's knowledge.

(5) The name and address of the alleged offender.

(6) Any other relevant information regarding the circumstances of the endangered adult.

As added by P.L.2-1992, SEC.4. Amended by P.L.21-1996, SEC.4.

IC 12-10-3-11

Immunity from civil and criminal liability; privileged information; whistleblower retaliation

Sec. 11. (a) A person, other than a person against whom a complaint concerning an endangered adult has been made, who in good faith:

(1) makes or causes to be made a report required to be made under this chapter;

(2) testifies or participates in any investigation or administrative or judicial proceeding on matters arising from the report;

(3) makes or causes to be made photographs or x-rays of an endangered adult; or

(4) discusses a report required to be made under this chapter with the division, the adult protective services unit, a law enforcement agency, or other appropriate agency;

is immune from both civil and criminal liability arising from those actions.

(b) An individual may not be excused from testifying before a court or grand jury concerning a report made under this chapter on the basis that the testimony is privileged information, unless the individual is an attorney, a physician, a clergyman, a husband, or a wife who is not required to testify under IC 34-46-3-1.

(c) An employer may not discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action to retaliate against an employee who in good faith files a report under this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.1-1998, SEC.102.

IC 12-10-3-12

Toll free report hotline; establishment of adult protective services standards of practice

Sec. 12. The division shall establish the following:

(1) A statewide toll free telephone line continuously open to receive reports of suspected neglect, battery, or exploitation.

(2) Standards of practice established with the concurrence of the prosecuting attorneys council of Indiana (IC 33-39-8-2) and governing the services provided by the adult protective services unit.

As added by P.L.2-1992, SEC.4. Amended by P.L.153-2011, SEC.8.

IC 12-10-3-13

Records; availability

Sec. 13. The division shall maintain the following:

(1) Records on individuals that the division and adult protective services units have determined to be endangered adults and the protective services needed.

(2) Records of agencies, persons, or institutions who are determined to have permitted neglect, battery, or exploitation of endangered adults.

(3) Nonidentifying statistical records concerning unsubstantiated reports about endangered adults.

The information maintained under this section shall be used solely for statistical purposes and must be available to law enforcement officials, state licensing agencies, and other officials and employees of municipal, county, and state government having a legitimate interest in the welfare of individuals who may be endangered adults or who have a legitimate interest in the operation of agencies or institutions providing care to individuals served under this chapter.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-14
Referral of reports of endangerment

Sec. 14. The division shall refer reports of neglect, battery, or exploitation to appropriate adult protective services units.
As added by P.L.2-1992, SEC.4.

IC 12-10-3-15
Confidentiality of reports; exceptions

Sec. 15. Reports made under this chapter and any other information obtained, reports written, or photographs taken concerning the reports are confidential and may be made available only to the individuals authorized in section 13 of this chapter as determined necessary by the division:

(1) for purposes of providing or monitoring protective services under this chapter;
(2) with the consent of all parties named in the report; or
(3) upon the issuance of a court order releasing the information.

As added by P.L.2-1992, SEC.4. Amended by P.L.110-1996, SEC.3.

IC 12-10-3-16
Repealed

(Repealed by P.L.153-2011, SEC.20.)

IC 12-10-3-17
Response to report of endangered adult in licensed health facility

Sec. 17. If an adult protective services unit receives a report alleging that an individual who is a resident of a facility licensed under IC 16-28 is an endangered adult, the adult protective services unit shall immediately communicate the report to the state department of health under IC 16-28-4-1.
As added by P.L.2-1992, SEC.4. Amended by P.L.2-1993, SEC.77; P.L.281-2003, SEC.2.

IC 12-10-3-18
Timely referral to appropriate responder

Sec. 18. If it appears that the immediate health or safety of an endangered adult is in danger, the division or adult protective services unit shall immediately refer the matter to the appropriate law enforcement agency and shall assist the law enforcement agency as requested by that agency. In all other cases, referral to the appropriate adult protective services unit shall be made within five (5) working days after the receipt of a report.
As added by P.L.2-1992, SEC.4.

IC 12-10-3-19
Court jurisdiction

Sec. 19. The circuit and superior courts with jurisdiction in the county in which the alleged endangered adult resides have original

and concurrent jurisdiction over a matter filed under this chapter.
As added by P.L.2-1992, SEC.4.

IC 12-10-3-20
Protective services consented to by endangered adult and interfered with by another; judicial intervention

Sec. 20. If an endangered adult gives consent to receive protective services arranged by the division or adult protective services unit and another person interferes with the delivery of the services, the division or adult protective services unit may, through the prosecuting attorney's office of the county in which the endangered adult resides, petition the circuit or superior court for an order to do the following:

(1) Enjoin the interference with the delivery of the services.

(2) Implement the delivery of services the endangered adult has consented to receive.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-21
Involuntary protective services; petition

Sec. 21. If an alleged endangered adult does not or is unable to consent to the receipt of protective services arranged by the division or the adult protective services unit or withdraws consent previously given, the adult protective services unit, either directly or through the prosecuting attorney's office in the county in which the endangered adult resides, may petition the court to require the alleged endangered adult to receive protective services. Any person upon consent of the adult protective services unit, may petition the court to require the alleged endangered adult to receive protective services. The petition must be under oath or affirmation and must include the following:

(1) The name, age, and residence of the alleged endangered adult who is to receive protective services.

(2) The nature of the problem or reason for the filing of the petition for protective order.

(3) The name and address of the petitioner and the name and address of the person or organization that may be required to complete the court ordered protective services. If the petitioner is an organization, the petition must contain information concerning the title and authority of the individual filing on behalf of that organization.

(4) Certification that:

(A) notice of the petition has been given to the alleged endangered adult, the alleged endangered adult's attorney, if any, or the alleged endangered adult's next of kin or guardian, if any; and

(B) section 21.5 of this chapter regarding notice to the alleged endangered adult's next of kin has been complied with.

If notice has not been given, a description of the attempts to give notice shall be given.

(5) The name and address of the individuals most closely related by blood or marriage to the alleged endangered adult, if known.
(6) A description of the proposed protective services to be provided.
(7) A statement that the adult protective services unit has been notified and consented to the petition if the petitioner is not the adult protective services unit.

As added by P.L.2-1992, SEC.4. Amended by P.L.110-1996, SEC.4; P.L.272-1999, SEC.28.

IC 12-10-3-21.5
Notice of petition

Sec. 21.5. Before a petition for:
(1) a protective order under section 21 of this chapter; or
(2) an emergency protective order under section 28 of this chapter;

of this chapter is filed, the petitioner must attempt to give actual notice of the petition to the alleged endangered adult's next of kin, if any. However, if the alleged endangered adult's next of kin cannot be located, notice to the last known address of the next of kin must be sent by certified mail on the same date that the petition is filed.

As added by P.L.110-1996, SEC.5.

IC 12-10-3-22
Hearing; counsel

Sec. 22. At a hearing at which a court determines whether an endangered adult should be required to receive protective services, the endangered adult is entitled to the following:
(1) To be represented by counsel.
(2) To have the court appoint counsel for the endangered adult if the court determines the endangered adult is indigent.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-23
Mandatory protective services; grounds

Sec. 23. The court may require an individual to receive protective services only if the court finds, after a hearing, that the individual:
(1) is an endangered adult;
(2) is in need of protective services; and
(3) lacks the ability to make an informed decision concerning the endangered adult's need for protective services.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-24
Protective services order; stipulations

Sec. 24. If, after a hearing, the court determines that an endangered adult should be required to receive protective services, the court shall issue a protective services order. The order must stipulate the following:
(1) The objectives of the protective services order.

(2) The least restrictive protective services necessary to attain the objectives of the protective services order that the endangered adult must receive.
(3) The duration during which the endangered adult must receive the protective services.
(4) That the adult protective services unit or other person designated by the court shall do the following:
(A) Provide or arrange for the provision of the protective services ordered by the court.
(B) Petition the court to modify or terminate the protective services order if:
(i) the protective services ordered by the court have not been effective in attaining the objectives of the protective services order;
(ii) the physical or mental health of the endangered adult is no longer in danger and the termination of the protective services order will not be likely to place the endangered adult's physical or mental health in danger; or
(iii) the endangered adult has consented to receive the protective services ordered by the court.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-25
Modification or termination of protective services order; motion

Sec. 25. The court may modify or terminate a protective services order upon its own motion or upon the motion of any of the following:
(1) The endangered adult.
(2) The endangered adult's guardian, custodian, or guardian ad litem.
(3) The adult protective services unit.
(4) Any person providing services to the endangered adult under the protective services order.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-26
Continuing jurisdiction hearing; necessary findings

Sec. 26. Every six (6) months after the date of the original protective services order or more often if ordered by the court, the adult protective services unit shall petition the court to hold a hearing on the question of continuing jurisdiction. For jurisdiction to continue, the court must find one (1) of the following:
(1) That the objectives of the order have not been attained, but that there is a reasonable probability that the objectives will be attained if the order is continued with or without modifications.
(2) That the objectives of the order have been attained, but that termination of the order will likely place the endangered adult's physical or mental health in danger.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-27

Orders protecting or implementing delivery of protective services

Sec. 27. The court may issue an order to:

(1) enjoin a person from interference with the delivery of a protective service ordered under section 24 of this chapter; or

(2) direct a person to take actions to implement the delivery of the protective services ordered under section 24 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.77-1992, SEC.2.

IC 12-10-3-28

Emergency protective orders; petition; hearing; stipulations; interference injunction; duration

Sec. 28. (a) If:

(1) an alleged endangered adult does not or is unable to consent to the receipt of protective services arranged by the division or the adult protective services unit or withdraws consent previously given; and

(2) the endangered adult is involved in a life threatening emergency;

the adult protective services unit, either directly or through the prosecuting attorney's office of the county in which the alleged endangered adult resides, may petition the superior or circuit court in the county where the alleged endangered adult resides for an emergency protective order.

(b) A petition for an emergency protective order must be under oath or affirmation and must include the following:

(1) The name, age, and residence of the endangered adult who is to receive emergency protective services.

(2) The nature of the problem and an allegation that a life threatening emergency exists.

(3) Evidence that immediate and irreparable injury will result if there is a delay in the provision of services.

(4) The name and address of the petitioner who is filing the petition and the name and address of the person or organization that may be required to complete the court ordered emergency protective services.

(5) Certification that:

(A) notice has been given to the alleged endangered adult, the alleged endangered adult's attorney, if any, or the alleged endangered adult's next of kin, if any; and

(B) section 21.5 of this chapter regarding notice to the alleged endangered adult's next of kin has been complied with.

If notice has not been given, a description of the attempts to give notice shall be given.

(6) A description of the emergency protective services to be provided.

(c) If, after the hearing of the petition, the court determines that the endangered adult should be required to receive emergency protective services, the court shall issue an emergency protective

order if the court finds the following:

(1) The individual is an endangered adult.

(2) A life threatening emergency exists.

(3) The endangered adult is in need of the proposed emergency protective services.

The court may issue the order ex parte.

(d) An emergency protective order must stipulate the following:

(1) The objectives of the emergency protective order.

(2) The least restrictive emergency protective services necessary to attain the objectives of the emergency protective order that the endangered adult must receive.

(3) The duration during which the endangered adult must receive the emergency protective services.

(4) That the emergency protective services unit or other person designated by the court shall do the following:

(A) Provide or arrange for the provision of the emergency protective services ordered by the court.

(B) Petition the court to modify or terminate the emergency protective order if:

(i) the emergency protective services ordered by the court have not been effective in attaining the objectives of the emergency protective order;

(ii) the physical or mental health of the endangered adult is no longer in danger and the termination of the emergency protective order will not be likely to place the endangered adult's physical or mental health in danger; or

(iii) the endangered adult has consented to receive the emergency protective services ordered by the court.

(e) The court may issue an order to:

(1) enjoin a person from interfering with the delivery of services ordered by an emergency protective order issued under this section; or

(2) direct a person to take actions to implement the delivery of services ordered by an emergency protective order issued under this section.

(f) An emergency protective order issued under this section may not remain in effect for longer than:

(1) ten (10) days; or

(2) thirty (30) days if the adult protective services unit shows the court that an extraordinary need exists that requires the order to remain in effect for not more than thirty (30) days.

(g) If at the expiration of an order the adult protective services unit determines that the endangered adult is in need of further protective services and that the endangered adult does not consent to the receipt of the services, a petition may be filed under section 21 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.77-1992, SEC.3; P.L.110-1996, SEC.6; P.L.272-1999, SEC.29.

IC 12-10-3-29

Immunity of division or unit personnel from civil or criminal liability

Sec. 29. An officer, agency, or employee of the division or adult protective services unit who performs duties in good faith under this chapter in rendering care to an endangered adult is immune from both civil and criminal liability arising from acts or omissions in rendering the service or care to the endangered adult.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-29.5

Appointment as representative of endangered adult

Sec. 29.5. (a) Except as provided in subsection (b), an adult protective services unit or a staff member of the adult protective services unit on the basis of the staff member's employment may not be designated as:

(1) a personal representative;
(2) a health care representative;
(3) a guardian;
(4) a guardian ad litem; or
(5) any other type of representative;

for an endangered adult.

(b) The:

(1) county prosecutor in the county in which the adult protective services unit is located; or
(2) head of the governmental entity if the adult protective services unit is operated by a governmental entity;

may give written permission for an adult protective services unit or a staff member of the adult protective services unit to be designated as a representative described in subsection (a)(1) through (a)(5).

As added by P.L.141-2006, SEC.40.

IC 12-10-3-30

Annual report

Sec. 30. The division shall report to the general assembly before February 2 of each year concerning the division's activities under this chapter during the preceding calendar year. The report must include the recommendations of the division relating to the need for continuing care of endangered adults under this chapter and must be in an electronic format under IC 5-14-6.

As added by P.L.2-1992, SEC.4. Amended by P.L.21-1996, SEC.5; P.L.28-2004, SEC.89.

IC 12-10-3-31

Persons not needing protective services

Sec. 31. An individual is not in need of protective services under this chapter:

(1) solely for the reason that the individual is being provided spiritual treatment in accordance with a recognized religious method of healing instead of specified medical treatment; and
(2) if the individual would not be considered to be an

endangered adult if the individual were receiving the medical treatment.

As added by P.L.77-1992, SEC.4.

IC 12-10-4
Repealed

(Repealed by P.L.153-2011, SEC.20.)

IC 12-10-5

Chapter 5. Expired

(Expired 12-31-2013 by P.L.153-2011, SEC.10.)

IC 12-10-5.5

Chapter 5.5. Alzheimer's and Dementia Special Care Disclosure

IC 12-10-5.5-1

"Alzheimer's and dementia special care" defined

Sec. 1. As used in this chapter, "Alzheimer's and dementia special care" means care provided to a person diagnosed with Alzheimer's disease, a related disorder, or dementia who resides in a health facility that:

(1) locks, secures, segregates, or provides a special program or special unit for residents with Alzheimer's disease, related disorders, or dementia; and

(2) advertises, markets, or promotes the health facility as providing Alzheimer's care services, dementia care services, or both.

As added by P.L.106-1997, SEC.4.

IC 12-10-5.5-2

"Health facility" defined

Sec. 2. As used in this chapter, "health facility" means a facility that is licensed under or subject to IC 16-28.

As added by P.L.106-1997, SEC.4.

IC 12-10-5.5-3

Disclosure form; contents

Sec. 3. A health facility that provides or offers Alzheimer's and dementia special care shall prepare a written disclosure in a form provided by the division that has been developed in conjunction with the long term care ombudsman's office and that contains the following information:

(1) The health facility's mission or philosophy statement concerning the needs of residents with Alzheimer's disease, a related disorder, or dementia.

(2) The process and criteria the health facility uses to determine placement, transfer, or discharge from Alzheimer's and dementia special care.

(3) The process for the assessment, establishment, and implementation of a plan of Alzheimer's and dementia special care, including how and when changes are made to a plan of care.

(4) The following information concerning the staff of the Alzheimer's and dementia special care unit:

(A) The staff-to-patient ratio for each shift.

(B) The positions and classifications of staff.

(C) The initial training or special education requirements of the staff.

(D) The qualities and amount of continuing education and in-service training required for staff.

(5) A description of the Alzheimer's and dementia special care

unit and the unit's design features.

(6) The frequency and types of activities for the residents of the facility who have Alzheimer's disease, a related disorder, or dementia.

(7) The extent that the health facility's Alzheimer's and dementia special care unit and program offers family support programs and solicits input from family members.

(8) Guidelines for using physical and chemical restraints in providing Alzheimer's and dementia special care.

(9) An itemization of the health facility's charges and fees for Alzheimer's and dementia special care and related services.

(10) Any other features, services, or characteristics that the health facility believes distinguishes the health facility from Alzheimer's and dementia special care offered by other facilities.

As added by P.L.106-1997, SEC.4.

IC 12-10-5.5-4
Form; requirements of health facility

Sec. 4. A health facility shall do the following with the disclosure form required under section 3 of this chapter:

(1) Submit the form to the division in December of each year.

(2) Make the form available to any individual seeking information on services for an individual with Alzheimer's disease or a related disorder.

As added by P.L.106-1997, SEC.4.

IC 12-10-5.5-5
Form; requirements of division

Sec. 5. The division shall do the following with the disclosure form received from each health facility under section 4 of this chapter:

(1) Make the form available to any individual upon request.

(2) Publish all the disclosure forms before February of each year in a single publication to disseminate to the public upon request.

As added by P.L.106-1997, SEC.4.

IC 12-10-5.5-6
Rules

Sec. 6. The division may adopt rules under IC 4-22-2 necessary to implement this chapter.

As added by P.L.106-1997, SEC.4.

IC 12-10-6

Chapter 6. Residential Care Assistance

IC 12-10-6-1

Eligibility of county home residents; amount; rate; personal allowance

Sec. 1. (a) An individual who:

(1) is at least sixty-five (65) years of age, is blind, or has a disability; and

(2) is a resident of a county home;

is eligible to receive assistance payments from the state if the individual would be eligible for assistance under the federal Supplemental Security Income program except for the fact that the individual is residing in a county home.

(b) The recipient shall be paid or allowed to retain from the recipient's income a monthly personal allowance. The amount:

(1) is fifty-two dollars ($52);

(2) is exempt from income eligibility consideration by the division; and

(3) may be exclusively used by the recipient for personal needs.

(c) In addition to the amount that may be retained as a personal allowance under this section, an individual is allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which the month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay state or local income taxes owed.

(d) In addition to the amounts that may be retained under subsections (b) and (c), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(e) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (b) plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars ($16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus

(D) any mandatory expenses required by the employer as a condition of employment.

As added by P.L.2-1992, SEC.4. Amended by P.L.2-1993, SEC.78; P.L.4-1993, SEC.37; P.L.5-1993, SEC.50; P.L.152-1995, SEC.2; P.L.24-1997, SEC.22; P.L.128-1999, SEC.6; P.L.272-1999, SEC.30;

P.L.294-2001, SEC.1; P.L.141-2006, SEC.41; P.L.99-2007, SEC.60; P.L.229-2011, SEC.118.

IC 12-10-6-2
Repealed

(Repealed by P.L.1-2003, SEC.104.)

IC 12-10-6-2.1
Residential care assistance; eligibility; alternative placement for individuals with mental retardation; recipient's right to retain a personal allowance and other amounts

Sec. 2.1. (a) An individual who is incapable of residing in the individual's own home may apply for residential care assistance under this section. The determination of eligibility for residential care assistance is the responsibility of the division. Except as provided in subsection (h), an individual is eligible for residential care assistance if the division determines that the individual:

(1) is a recipient of Medicaid or the federal Supplemental Security Income program;

(2) is incapable of residing in the individual's own home because of dementia, mental illness, or a physical disability;

(3) requires a degree of care less than that provided by a health care facility licensed under IC 16-28;

(4) can be adequately cared for in a residential care setting; and

(5) has not made any asset transfer prohibited under the state plan or in 42 U.S.C. 1396p(c) in order to be eligible for Medicaid.

(b) Individuals with mental retardation may not be admitted to a home or facility that provides residential care under this section.

(c) A service coordinator employed by the division may:

(1) evaluate a person seeking admission to a home or facility under subsection (a); or

(2) evaluate a person who has been admitted to a home or facility under subsection (a), including a review of the existing evaluations in the person's record at the home or facility.

If the service coordinator determines the person evaluated under this subsection has mental retardation, the service coordinator may recommend an alternative placement for the person.

(d) Except as provided in section 5 of this chapter, residential care consists of only room, board, and laundry, along with minimal administrative direction. The recipient may retain from the recipient's income a monthly personal allowance of fifty-two dollars ($52). This amount is exempt from income eligibility consideration by the division and may be exclusively used by the recipient for the recipient's personal needs. However, if the recipient's income is less than the amount of the personal allowance, the division shall pay to the recipient the difference between the amount of the personal allowance and the recipient's income. A reserve or an accumulated balance from such a source, together with other sources, may not be allowed to exceed the state's resource allowance allowed for adults

eligible for state supplemental assistance or Medicaid as established by the rules of the office of Medicaid policy and planning.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual shall be allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which that month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay any state or local income taxes owed.

(f) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars ($16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus

(D) any mandatory expenses required by the employer as a condition of employment.

(h) An individual who, before September 1, 1983, has been admitted to a home or facility that provides residential care under this section is eligible for residential care in the home or facility.

(i) The director of the division may contract with the division of mental health and addiction or the division of disability and rehabilitative services to purchase services for individuals with a mental illness or a developmental disability by providing money to supplement the appropriation for community based residential care programs established under IC 12-22-2 or community based residential programs established under IC 12-11-1.1-1.

(j) A person with a mental illness may not be placed in a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., unless the facility is licensed under IC 16-28.

As added by P.L.1-2003, SEC.52. Amended by P.L.141-2006, SEC.42; P.L.99-2007, SEC.61; P.L.121-2008, SEC.1; P.L.143-2011, SEC.11; P.L.229-2011, SEC.119; P.L.6-2012, SEC.89.

IC 12-10-6-3
Repealed

(Repealed by P.L.229-2011, SEC.272.)

IC 12-10-6-4
Excess income recipients; continued eligibility

Sec. 4. (a) An individual who:

(1) is receiving residential care assistance under section 1 or 2.1 of this chapter; and

(2) has an increase in income that would make the individual ineligible for residential care assistance;

may elect to continue to be eligible for residential care assistance by paying the excess income to the home or facility that provides residential care.

(b) If an individual applies the excess income toward the residential care assistance under subsection (a), the division shall reduce the payment to the home or facility that provides residential care by the amount received by the home or facility.

As added by P.L.2-1992, SEC.4. Amended by P.L.27-1992, SEC.10; P.L.24-1997, SEC.25; P.L.1-2007, SEC.118.

IC 12-10-6-5
Individuals with a mental illness; comprehensive care plan; rules

Sec. 5. (a) An individual who is determined under section 2.1(a)(2) of this chapter to be incapable of residing in the individual's own home because of mental illness may be admitted to a home or facility that provides residential care to the extent that money is available for the care.

(b) Within thirty (30) days after an individual with a mental illness is placed in a home or facility that provides residential care, a comprehensive care plan must be developed for the individual.

(c) The residential care facility, in cooperation with the community mental health center or an individual's managed care provider (as defined in IC 12-7-2-127(b)) serving the area in which the residential care facility is located, shall develop the comprehensive care plan for the individual. The plan must include the following:

(1) Psychosocial rehabilitation services that are provided within the community.

(2) A comprehensive range of activities to meet multiple levels of need, including the following:

(A) Recreational and socialization activities.

(B) Social skills.

(C) Educational, training, occupational, and work programs.

(D) Opportunities for progression into less restrictive and more independent living arrangements.

(3) Appropriate alternate placement if the individual's needs cannot be met by the facility.

(d) The Indiana health facilities, home health care, and hospice council shall, in coordination with the division of mental health and addiction and the division, adopt rules under IC 4-22-2 to govern:

(1) residential care; and

(2) the comprehensive care plan;

provided to individuals with a mental illness who reside under this chapter in a home or facility that provides residential care.
As added by P.L.2-1992, SEC.4. Amended by P.L.40-1994, SEC.19; P.L.215-2001, SEC.37; P.L.99-2007, SEC.62; P.L.197-2011, SEC.40.

IC 12-10-6-6
Application for assistance

Sec. 6. (a) To obtain assistance under this chapter, an individual must apply to the local administrative unit designated by the division. The application must be:

(1) in writing or reduced to writing;
(2) made in the manner and upon the form prescribed by the division; and
(3) verified by the oath of the applicant.

(b) If an individual applying for assistance is mentally or physically unable to sign an application verified by the oath of the applicant, an application may be made by an interested individual acting in the applicant's behalf, and the application shall be verified upon the basis of information and belief of the interested individual.

(c) Each application must contain a statement of all of the following:

(1) The amount of property, both personal and real, in which the applicant has an interest.
(2) All income that the applicant has at the time of the filing of the application.
(3) Any other information prescribed by the division.

As added by P.L.2-1992, SEC.4. Amended by P.L.128-1999, SEC.8.

IC 12-10-6-7
Investigation of applicant

Sec. 7. Whenever the local administrative unit designated by the division receives an application for assistance under this chapter, an investigation shall be made of the circumstances of the applicant to ascertain the facts supporting the application and any other information that may be required by the rules of the division.
As added by P.L.2-1992, SEC.4.

IC 12-10-6-8
Investigative report and recommendation

Sec. 8. Upon completion of the investigation, the local administrative unit designated by the division shall make a report and a recommendation to the division relative to the eligibility of the applicant for assistance, the amount of the assistance, and the date when the assistance should begin.
As added by P.L.2-1992, SEC.4.

IC 12-10-6-9
Amount of assistance; determination

Sec. 9. The division shall determine the amount of the assistance

and the date on which the assistance should begin. In determining the amount of assistance, due account shall be taken of any income or property of the applicant and of any support that the applicant may receive from other sources, including any benefit the applicant is receiving from the Social Security Administration. The award made by the division and a subsequent modification of the award is binding upon the state and shall be complied with by the state until the award or modified award is vacated.
As added by P.L.2-1992, SEC.4.

IC 12-10-6-10
Monthly payments; warrants

Sec. 10. (a) The assistance shall be paid monthly to:

(1) the recipient; or

(2) the administrator of the county home if the local administrative unit designated by the division so designates;

upon warrant of the auditor of state from money appropriated to the division for that purpose.

(b) The auditor of state shall draw the warrants based upon a verified schedule of the recipients and the amount payable to each recipient, prepared and verified by the director of the division in accordance with awards made by the division.
As added by P.L.2-1992, SEC.4.

IC 12-10-6-11
Reconsideration; report of change; hearing

Sec. 11. (a) All assistance granted under this chapter shall be reconsidered as frequently as is required by the rules of the division. After further investigation that the local administrative unit designated by the division considers necessary or that the division requires, the amount of assistance may be changed or entirely withdrawn if the division finds that the recipient's circumstances have altered sufficiently to warrant that action.

(b) Whenever assistance is withdrawn, revoked, suspended, or in any way changed, the division shall immediately report the decision to the local administrative unit designated by the division.

(c) If assistance is in any way changed, the recipient is entitled to a hearing under the rules adopted by the division.
As added by P.L.2-1992, SEC.4.

IC 12-10-6-12
New county home admittees; aid in applying for assistance

Sec. 12. When an individual is admitted to a county home, the administrator of the home shall assist the resident in applying for assistance under this chapter.
As added by P.L.2-1992, SEC.4.

IC 12-10-6-13
Higher education award not to be considered income or resource for purposes of assistance eligibility

Sec. 13. If an individual receives a state or federal higher education award that is paid directly to an approved postsecondary educational institution for that individual's benefit:

(1) that individual is not required to report that award as income or as a resource of that individual when applying for assistance provided under this chapter; and

(2) the award may not be considered as income or a resource of the individual in determining initial or continuing eligibility for assistance under this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.2-2007, SEC.154.

IC 12-10-6-14
Repealed

(Repealed by P.L.229-2011, SEC.272.)

IC 12-10-7

Chapter 7. Adult Guardianship Services

IC 12-10-7-1

"Incapacitated individual" defined

Sec. 1. As used in this chapter, "incapacitated individual" means an individual who:

(1) cannot be located upon reasonable inquiry;

(2) is unable:

(A) to manage in whole or in part the individual's property;

(B) to provide self-care; or

(C) to do either of the functions described in clauses (A) and (B);

because of mental illness, dementia, physical illness, infirmity, habitual drunkenness, excessive use of drugs, confinement, detention, duress, fraud, undue influence of others on the individual, or other disability (as that term is used in IC 12-10-10-3 or IC 12-14-15-1); or

(3) has a developmental disability.

As added by P.L.2-1992, SEC.4. Amended by P.L.21-1996, SEC.6.

IC 12-10-7-2

"Indigent adult" defined

Sec. 2. As used in this chapter, "indigent adult" means an individual who:

(1) is at least eighteen (18) years of age;

(2) has no appropriate person to serve as guardian; and

(3) either:

(A) has an annual gross income of not more than one hundred twenty-five percent (125%) of the federal income poverty level as determined annually by the federal Office of Management and Budget under 42 U.S.C. 9902; or

(B) demonstrates the inability to obtain privately provided guardianship services.

As added by P.L.2-1992, SEC.4.

IC 12-10-7-3

"Provider" defined

Sec. 3. As used in this chapter, "provider" refers to a regional guardianship services provider.

As added by P.L.2-1992, SEC.4.

IC 12-10-7-4

"Region" defined

Sec. 4. As used in this chapter, "region" means a service provision region established by the division by rule adopted under IC 4-22-2.

As added by P.L.2-1992, SEC.4.

IC 12-10-7-5

Establishment of program

Sec. 5. The adult guardianship services program is established to provide services within the limits of available funding for indigent incapacitated adults.
As added by P.L.2-1992, SEC.4.

IC 12-10-7-6
Administration
Sec. 6. The director shall administer the program on a statewide basis.
As added by P.L.2-1992, SEC.4.

IC 12-10-7-7
Rules
Sec. 7. The director of the division shall adopt rules under IC 4-22-2 to implement this chapter.
As added by P.L.2-1992, SEC.4.

IC 12-10-7-8
Contracts for services; provider qualifications; specifications
Sec. 8. (a) The division shall contract in writing for the provision of the guardianship services required in each region with a nonprofit corporation that is:
(1) qualified to receive tax deductible contributions under Section 170 of the Internal Revenue Code; and
(2) located in the region.
(b) The division shall establish qualifications to determine eligible providers in each region.
(c) Each contract between the division and a provider must specify a method for the following:
(1) The establishment of a guardianship committee within the provider, serving under the provider's board of directors.
(2) The provision of money and services by the provider in an amount equal to at least twenty-five percent (25%) of the total amount of the contract and the provision by the division of the remaining amount of the contract. The division shall establish guidelines to determine the value of services provided under this subdivision.
(3) The establishment of procedures to avoid a conflict of interest for the provider in providing necessary services to each incapacitated individual.
(4) The identification and evaluation of indigent adults in need of guardianship services.
(5) The adoption of individualized service plans to provide the least restrictive type of guardianship or related services for each incapacitated individual, including the following:
(A) Designation as a representative payee by:
(i) the Social Security Administration;
(ii) the United States Office of Personnel Management;
(iii) the United States Department of Veterans Affairs; or
(iv) the United States Railroad Retirement Board.

(B) Limited guardianship under IC 29-3.
(C) Guardianship of the person or estate under IC 29-3.
(D) The appointment of:
(i) a health care representative under IC 16-36-1-7; or
(ii) a power of attorney under IC 30-5.

(6) The periodic reassessment of each incapacitated individual.

(7) The provision of legal services necessary for the guardianship.

(8) The training and supervision of paid and volunteer staff.

(9) The establishment of other procedures and programs required by the division.

As added by P.L.2-1992, SEC.4. Amended by P.L.21-1996, SEC.7; P.L.24-1997, SEC.27.

IC 12-10-7-9
Audits

Sec. 9. (a) Each provider is subject to periodic audit of the adult guardianship services program by an independent certified public accountant.

(b) The results of the audit required under subsection (a) must be submitted to the division.

As added by P.L.2-1992, SEC.4. Amended by P.L.21-1996, SEC.8; P.L.24-1997, SEC.28.

IC 12-10-8
Repealed

(Repealed by P.L.24-1997, SEC.66.)

IC 12-10-9
Repealed

(Repealed by P.L.24-1997, SEC.66.)

IC 12-10-10

Chapter 10. Community and Home Options to Institutional Care for the Elderly and Disabled Program

IC 12-10-10-1

"Case management"

Sec. 1. As used in this chapter, "case management" means an administrative function conducted locally by an area agency on aging that includes the following:

(1) Assessment of an individual to determine the individual's functional impairment level and corresponding need for services.

(2) Development of a care plan addressing an eligible individual's needs.

(3) Supervision of the implementation of appropriate and available services for an eligible individual.

(4) Advocacy on behalf of an eligible individual's interests.

(5) Monitoring the quality of community and home care services provided to an eligible individual.

(6) Reassessment of the care plan to determine the continuing need and effectiveness of the community and home care services provided to an eligible individual under this chapter.

(7) Provision of information and referral services to individuals in need of community and home care services.

As added by P.L.2-1992, SEC.4. Amended by P.L.150-1995, SEC.5; P.L.154-1995, SEC.1.

IC 12-10-10-1.5

"Activities of daily living"

Sec. 1.5. As used in this chapter, "activities of daily living" refers to an activity described in the long term care services eligibility screen.

As added by P.L.150-1995, SEC.6.

IC 12-10-10-2

"Community and home care services"

Sec. 2. As used in this chapter, "community and home care services" means services provided within the limits of available funding to an eligible individual. The term includes the following:

(1) Homemaker services and attendant care, including personal care services.

(2) Respite care services and other support services for primary or family caregivers.

(3) Adult day care services.

(4) Home health services and supplies.

(5) Home delivered meals.

(6) Transportation.

(7) Attendant care services provided by a registered personal services attendant under IC 12-10-17.1 to persons described in IC 12-10-17.1-6.

(8) Other services necessary to prevent institutionalization of eligible individuals when feasible.

As added by P.L.2-1992, SEC.4. Amended by P.L.150-1995, SEC.7; P.L.154-1995, SEC.2; P.L.255-2001, SEC.10; P.L.141-2006, SEC.43.

IC 12-10-10-3
"Individual with a disability"

Sec. 3. As used in this chapter, "individual with a disability" refers to an individual with a severe chronic disability that is attributable to a mental or physical impairment or combination of mental and physical impairments that is likely to continue indefinitely.

As added by P.L.2-1992, SEC.4. Amended by P.L.99-2007, SEC.63.

IC 12-10-10-4
"Eligible individual"

Sec. 4. (a) As used in this chapter, "eligible individual" means an individual who:

(1) is a resident of Indiana;

(2) is:

(A) at least sixty (60) years of age; or

(B) an individual with a disability;

(3) has assets that do not exceed five hundred thousand dollars ($500,000), as determined by the division; and

(4) qualifies under criteria developed by the board as having an impairment that places the individual at risk of losing the individual's independence, as described in subsection (b).

(b) For purposes of subsection (a), an individual is at risk of losing the individual's independence if the individual is unable to perform two (2) or more activities of daily living. The use by or on behalf of the individual of any of the following services or devices does not make the individual ineligible for services under this chapter:

(1) Skilled nursing assistance.

(2) Supervised community and home care services, including skilled nursing supervision.

(3) Adaptive medical equipment and devices.

(4) Adaptive nonmedical equipment and devices.

As added by P.L.2-1992, SEC.4. Amended by P.L.150-1995, SEC.8; P.L.246-2005, SEC.99; P.L.99-2007, SEC.64.

IC 12-10-10-4.5
"Long term care services eligibility screen"

Sec. 4.5. (a) As used in this chapter, "long term care services eligibility screen" refers to the long term care services eligibility screen used by the division in making eligibility determinations under this chapter.

(b) The long term care services eligibility screen must conform with the activities of daily living standard established by this chapter.

As added by P.L.150-1995, SEC.9.

IC 12-10-10-5
"Program"

Sec. 5. As used in this chapter, "program" refers to the community and home options to institutional care for the elderly and disabled program established by this chapter.

As added by P.L.2-1992, SEC.4.

IC 12-10-10-6
Establishment of program; administration; duties of division

Sec. 6. The community and home options to institutional care for the elderly and disabled program is established. The division shall administer the program and shall do the following:

(1) Adopt rules under IC 4-22-2 for the coordination of the program.

(2) Administer state and federal money for the program.

(3) Develop and implement a process for the management and operation of the program locally through the area agencies on aging based upon criteria developed by the division.

(4) Approve the selection of community and home care services providers based upon criteria developed by the division.

(5) Review and approve community and home care services plans developed by services providers.

(6) Provide training and technical assistance for the staff providers.

(7) Select or contract with agencies throughout Indiana to provide community and home care services.

(8) Assist the office in applying for Medicaid waivers from the United States Department of Health and Human Services to fund community and home care services needed by eligible individuals under this chapter.

(9) Have self-directed care options and services available for an eligible individual who chooses self-directed care services.

As added by P.L.2-1992, SEC.4. Amended by P.L.150-1995, SEC.10; P.L.154-1995, SEC.3; P.L.112-1997, SEC.2; P.L.47-2009, SEC.1.

IC 12-10-10-6.3
Long term care eligibility screen; publication; public inspection

Sec. 6.3. (a) The division shall file for publication in the Indiana Register a copy of the long term care services eligibility screen.

(b) The division shall:

(1) keep on file in the division's office; and

(2) make available for public inspection during regular business hours;

a copy of the long term care services eligibility screen.

(c) The division shall provide a copy of the long term care services eligibility screen to any individual upon request.

As added by P.L.150-1995, SEC.11.

IC 12-10-10-6.5
Restrictions on adoption of rules or criteria governing eligibility

Sec. 6.5. (a) The division shall not adopt any rule governing the eligibility of an individual under this chapter that is more restrictive than the definition of eligible individual in section 4 of this chapter.

(b) The division and the board shall not adopt an eligibility criterion that is more restrictive than the definition of eligible individual described in section 4 of this chapter.

(c) Any:

(1) eligibility rule adopted by the division; or

(2) eligibility criterion adopted by the division or the board;

must be specific to the program established under this chapter and may not be defined by reference to a rule, guideline, or procedure for another program or service, for a service provided under a Medicaid waiver, or for institutional care.

As added by P.L.150-1995, SEC.12.

IC 12-10-10-7

Agency conducting case management not to provide services; exception

Sec. 7. (a) Except as provided in subsection (b), the case management under this chapter of an individual leading to participation in the program may not be conducted by any agency that delivers services under the program.

(b) If the division determines that there is no alternative agency capable of delivering services to the individual, the area agency on aging that performs the assessment under the program may also deliver the services.

As added by P.L.2-1992, SEC.4. Amended by P.L.150-1995, SEC.13; P.L.154-1995, SEC.4.

IC 12-10-10-8

Distribution of funds for home health services

Sec. 8. Except as provided in section 9 of this chapter, state money for home health services under this chapter must be distributed only to licensed health care professionals, facilities, and agencies.

As added by P.L.2-1992, SEC.4.

IC 12-10-10-9

Eligible individuals' relatives training program; reimbursement for provision of services by relative

Sec. 9. (a) The division shall establish a program to train relatives of eligible individuals to provide homemaker and personal care services to those eligible individuals.

(b) Relatives of eligible individuals who complete the training program established under this section are eligible for reimbursement under this chapter or under the Medicaid program for the provision of homemaker and personal care services to those eligible individuals. Reimbursement under the Medicaid program is limited to those cases in which the provision of homemaker and personal care services to an eligible individual by a relative results in financial hardship to the relative.

As added by P.L.2-1992, SEC.4.

IC 12-10-10-10
Services funding; source

Sec. 10. Federal social services block grant money shall be used to fund services under this chapter that are not otherwise reimbursable under the Medicaid program.
As added by P.L.2-1992, SEC.4.

IC 12-10-10-11
Reporting requirement; contents; submission to board and general assembly; funding

Sec. 11. (a) Before October 1 of each year, the division, in conjunction with the office of the secretary, shall prepare a report for review by the board and the general assembly. The report must include the following information regarding clients and services of the community and home options to institutional care for the elderly and disabled program and other long term care home and community based programs:

(1) The amount and source of all local, state, and federal dollars spent.
(2) The use of the community and home options to institutional care for the elderly and disabled program in supplementing the funding of services provided to clients through other programs.
(3) The number and types of participating providers.
(4) An examination of:
(A) demographic characteristics; and
(B) impairment and medical characteristics.
(5) A comparison of costs for all publicly funded long term care programs.
(6) Client care outcomes.
(7) A determination of the estimated number of applicants for services from the community and home options to institutional care for the elderly and disabled program who have:
(A) one (1) assessed activity of daily living that cannot be performed;
(B) two (2) assessed activities of daily living that cannot be performed; and
(C) three (3) or more assessed activities of daily living that cannot be performed;
and the estimated effect of the results under clauses (A), (B), and (C) on program funding, program savings, client access, client care outcomes, and comparative costs with other long term care programs.

(b) After receiving the report described in subsection (a), the board may do the following:

(1) Review and comment on the report.
(2) Solicit public comments and testimony on the report.
(3) Incorporate its own opinions into the report.

(c) The board shall submit the report in an electronic format under

IC 5-14-6 along with any additions made under subsection (b) to the general assembly after November 15 and before December 31 each year.

(d) Funding for the report must come entirely from:

(1) funds already available for similar purposes;

(2) discretionary funds available to the division or the office of the secretary;

(3) reversion funds; and

(4) private funds and grants.

As added by P.L.150-1995, SEC.14. Amended by P.L.2-1996, SEC.233; P.L.28-2004, SEC.91.

IC 12-10-10-12

Negotiation of reimbursement rates

Sec. 12. (a) The office of the secretary, in consultation with the local area agencies on aging, shall negotiate reimbursement rates for services provided under this chapter.

(b) Payments for services under this chapter may not be counted in a Medicaid recipient's spend down requirement in IC 12-15.

As added by P.L.246-2005, SEC.100.

IC 12-10-10.5

Chapter 10.5. Community Living Pilot Program

IC 12-10-10.5-1

"Board"

Sec. 1. As used in this chapter, "board" refers to the community and home options to institutional care for the elderly and disabled board established by IC 12-10-11-1.

As added by P.L.145-2014, SEC.5.

IC 12-10-10.5-2

"Case management"

Sec. 2. As used in this chapter, "case management" means an administrative function conducted locally by an area agency on aging that includes the following:

(1) Assessment of an individual to determine the individual's functional impairment level and corresponding need for services.

(2) Initial verification of an individual's income and assets.

(3) Development of a care plan that:

(A) addresses an eligible individual's needs;

(B) takes into consideration the individual's family and community members who are willing to provide services to meet any of the individual's needs; and

(C) is consistent with a person centered approach to client care.

(4) Supervision of the implementation of appropriate and available services for an eligible individual.

(5) Advocacy on behalf of an eligible individual's interests.

(6) Monitoring the quality of community and home care services provided to an eligible individual.

(7) Reassessment of the care plan to determine:

(A) the continuing need and effectiveness of the community and home care services provided to an eligible individual under this chapter; and

(B) the annual reverification of an eligible individual's income and assets, as may be required by the division under section 3(d) of this chapter.

(8) Provision of information and referral services to individuals in need of community and home care services.

As added by P.L.145-2014, SEC.5.

IC 12-10-10.5-3

"Eligible individual"; at risk of losing independence; cost participation schedule; annual reverification; prohibition on family providing services

Sec. 3. (a) As used in this chapter, "eligible individual" means an individual who meets the following criteria:

(1) Is a resident of Indiana.

(2) Is:

(A) at least sixty (60) years of age; or

(B) an individual with a disability.

(3) Has countable assets that do not exceed two hundred fifty thousand dollars ($250,000). In determining assets under this subdivision, the division shall exclude an additional twenty thousand dollars ($20,000) in countable assets.

(4) Qualifies under criteria developed by the board as having an impairment that places the individual at risk of losing the individual's independence, as described in subsection (b).

(5) Applies initially for the program after December 31, 2014.

(b) For purposes of subsection (a), an individual is at risk of losing the individual's independence if the individual is unable to perform any of the following:

(1) Two (2) or more activities of daily living. The use by or on behalf of the individual of any of the following services or devices does not make the individual ineligible for services under this chapter:

(A) Skilled nursing assistance.

(B) Supervised community and home care services, including skilled nursing supervision.

(C) Adaptive medical equipment and devices.

(D) Adaptive nonmedical equipment and devices.

(2) One (1) activity of daily living if, using the needs based assessment established under section 10(1) of this chapter and in accordance with written standards that are established by the division under section 5(c) of this chapter, the area agency on aging determines that addressing the single activity of daily living would significantly reduce the likelihood of the individual's loss of independence and the need for additional services.

(3) An activity if, using the needs based assessment established under section 10(1) of this chapter and in accordance with written standards that are established by the division under section 5(c) of this chapter, the area agency on aging determines that targeted intervention or assistance with the activity would significantly reduce the likelihood of the individual's loss of independence and the need for additional services.

(c) The division shall, in accordance with standards established under section 10(3) of this chapter, establish a cost participation schedule for an eligible individual based on the eligible individual's income and countable assets. The cost participation schedule must meet the following:

(1) Exclude from cost participation an eligible individual whose income and countable assets do not exceed one hundred fifty percent (150%) of the federal income poverty level.

(2) In calculating income and countable assets for an eligible individual, deduct the medical expenses of the following:

(A) The individual.

(B) The spouse of the individual.

(C) The dependent children of the individual.

(3) Exclude twenty thousand dollars ($20,000) of an eligible individual's countable assets from consideration in determining an eligible individual's cost participation.

(d) The division may require annual reverification for eligible individuals who the division determines are likely to experience a material increase in income or assets. An individual shall submit the information requested by the division to carry out the redetermination allowed by this subsection.

(e) The division may not require a family or other person to provide services as a condition of an individual's eligibility for or participation in the program.

As added by P.L.145-2014, SEC.5.

IC 12-10-10.5-4
"Program"

Sec. 4. As used in this chapter, "program" refers to the community living pilot program established by section 5 of this chapter.

As added by P.L.145-2014, SEC.5.

IC 12-10-10.5-5
Establishment of pilot program; administration of pilot program; report; written standards

Sec. 5. (a) Beginning January 1, 2015, the community living pilot program is established.

(b) The division shall administer the program. The division shall do the following:

(1) In consultation with the area agencies on aging, designate four (4) area agencies on aging to participate in the program. In determining the four (4) area agencies on aging to participate in the program, the division shall consider the following criteria:

(A) Geographic diversity.

(B) Urban and rural representation.

(C) Size of the area agency on aging's waiting list for services.

(D) Size of the population served by the area agency on aging.

(2) Report data and outcome measures concerning the program to the board and, in an electronic format under IC 5-14-6, to the legislative council and an appropriate interim study committee determined by the legislative council before the following:

(A) March 15, 2016.

(B) September 15, 2016.

(C) March 15, 2017.

Each report under this subdivision must include an analysis on the areas participating in the program and whether implementation of the program has affected the admission of individuals to comprehensive care beds in nursing facilities in the area.

(c) The division shall establish written standards setting forth criteria that the area agency on aging shall use in determining

whether an individual who is unable to perform one (1) activity of daily living or one (1) activity is eligible for the program. An area agency on aging may not determine that an individual who is unable to perform one (1) activity of daily living or one (1) activity is eligible for the program until the division establishes the standards required by this subsection.
As added by P.L.145-2014, SEC.5.

IC 12-10-10.5-6
Case management; funding

Sec. 6. (a) Except as provided in subsection (b), the case management under this chapter of an individual leading to participation in the program may not be conducted by any agency that delivers services under the program.

(b) If the division determines that there is no alternative agency capable of delivering services to the individual, the area agency on aging that performs the assessment under the program may also deliver the services.

(c) The division shall provide the necessary funding to provide case management services for the program, as determined under section 10(2) of this chapter.
As added by P.L.145-2014, SEC.5.

IC 12-10-10.5-7
Distribution of funds for home health services limitation

Sec. 7. Except as provided in section 8 of this chapter, state money for home health services under this chapter must be distributed only to licensed health care professionals, facilities, and agencies.
As added by P.L.145-2014, SEC.5.

IC 12-10-10.5-8
Program to train relatives to provide services

Sec. 8. The division shall establish a program to train relatives of eligible individuals to provide homemaker and personal care services to those eligible individuals.
As added by P.L.145-2014, SEC.5.

IC 12-10-10.5-9
Negotiation of reimbursement rates

Sec. 9. The office of the secretary, in consultation with the local area agencies on aging, shall negotiate reimbursement rates for services provided under this chapter.
As added by P.L.145-2014, SEC.5.

IC 12-10-10.5-10
Development of policies by division

Sec. 10. The division, in consultation with the area agencies on aging, shall develop policies that establish the following:

(1) A needs based assessment to be used in determining a client's needs and care plan under section 2(3) of this chapter.

(2) The percentage of program dollars adequate to provide case management services.

(3) A cost participation schedule for program recipients as required by section 3(c) of this chapter.

(4) Program performance measures.

(5) Data and outcome measures for the program to be collected and reported under section 5(b)(2) of this chapter.

As added by P.L.145-2014, SEC.5.

IC 12-10-10.5-11

Auditing; imposition of penalties

Sec. 11. The division may do the following:

(1) Audit an area agency on aging for compliance with this chapter.

(2) Impose a penalty on an area agency on aging for any violation of this chapter.

As added by P.L.145-2014, SEC.5.

IC 12-10-10.5-12

Expiration of chapter

Sec. 12. This chapter expires June 30, 2017.

As added by P.L.145-2014, SEC.5.

IC 12-10-11

Chapter 11. Community and Home Options to Institutional Care for the Elderly and Disabled Board

Revisor's note: The 2003 Indiana Code Supplement stated incorrectly that IC 12-10-11 was repealed. Use the following provisions of IC 12-10-11.

IC 12-10-11-1

Establishment of board

Sec. 1. The community and home options to institutional care for the elderly and disabled board is established.

As added by P.L.2-1992, SEC.4.

IC 12-10-11-2

Membership; appointment; vacancy; notice to public of nomination process

Sec. 2. (a) The board consists of the following fifteen (15) members:

(1) The director of the division of family resources or the director's designee.

(2) The chairman of the Indiana state commission on aging or the chairman's designee.

(3) Three (3) citizens at least sixty (60) years of age, nominated by two (2) or more organizations that:

(A) represent senior citizens; and

(B) have statewide membership.

(4) One (1) citizen less than sixty (60) years of age nominated by one (1) or more organizations that:

(A) represent individuals with disabilities; and

(B) have statewide membership.

(5) One (1) citizen less than sixty (60) years of age nominated by one (1) or more organizations that:

(A) represent individuals with mental illness; and

(B) have statewide membership.

(6) One (1) provider who provides services under IC 12-10-10.

(7) One (1) licensed physician, nurse, or nurse practitioner who specializes either in the field of gerontology or in the field of disabilities.

(8) Two (2) home care services advocates or policy specialists nominated by two (2) or more:

(A) organizations;

(B) associations; or

(C) nongovernmental agencies;

that advocate on behalf of home care consumers, including an organization listed in subdivision (3) that represents senior citizens or persons with disabilities.

(9) Two (2) members of the senate, who may not be members of the same political party, appointed by the president pro tempore of the senate with the advice of the minority leader of the senate.

(10) Two (2) members of the house of representatives, who may

not be members of the same political party, appointed by the speaker of the house of representatives with the advice of the minority leader of the house of representatives.

The members of the board listed in subdivisions (9) and (10) are nonvoting members.

(b) The members of the board designated by subsection (a)(3) through (a)(8) shall be appointed by the governor for terms of two (2) years. In case of a vacancy, the governor shall appoint an individual to serve for the remainder of the unexpired term.

(c) The division shall establish notice and selection procedures to notify the public of the board's nomination process described in this chapter. Information must be distributed through:

(1) the area agencies on aging; and

(2) all organizations, associations, and nongovernmental agencies that work with the division on home care issues and programs.

As added by P.L.2-1992, SEC.4. Amended by P.L.150-1995, SEC.15; P.L.137-2005, SEC.1; P.L.145-2006, SEC.68.

IC 12-10-11-3

Per diem; expenses reimbursement

Sec. 3. (a) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the board who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.2-1992, SEC.4.

IC 12-10-11-4

Meetings

Sec. 4. The board shall meet at least six (6) times a year.

As added by P.L.2-1992, SEC.4.

IC 12-10-11-5

Officers; election

Sec. 5. Each year the board shall elect from its membership a chairman and vice chairman.

As added by P.L.2-1992, SEC.4.

IC 12-10-11-6

Deliberations procedures

Sec. 6. The board shall establish procedures to govern its deliberations.

As added by P.L.2-1992, SEC.4.

IC 12-10-11-7
Staff services

Sec. 7. The division shall provide staff services for the board.
As added by P.L.2-1992, SEC.4.

IC 12-10-11-8
Duties

Sec. 8. The board shall do the following:

(1) Establish long term goals of the state for the provision of a continuum of care for the elderly and individuals with a disability based on the following:

(A) Individual independence, dignity, and privacy.

(B) Long term care services that are:

(i) integrated, accessible, and responsible; and

(ii) available in home and community settings.

(C) Individual choice in planning and managing long term care.

(D) Access to an array of long term care services:

(i) for an individual to receive care that is appropriate for the individual's needs; and

(ii) to enable a case manager to have cost effective alternatives available in the construction of care plans and the delivery of services.

(E) Long term care services that include home care, community based services, assisted living, congregate care, adult foster care, and institutional care.

(F) Maintaining an individual's dignity and self-reliance to protect the fiscal interests of both taxpayers and the state.

(G) Long term care services that are fiscally sound.

(H) Services that:

(i) promote behavioral health; and

(ii) prevent and treat mental illness and addiction.

(2) Review state policies on community and home care services.

(3) Recommend the adoption of rules under IC 4-22-2.

(4) Recommend legislative changes affecting community and home care services.

(5) Recommend the coordination of the board's activities with the activities of other boards and state agencies concerned with community and home care services.

(6) Evaluate cost effectiveness, quality, scope, and feasibility of a state administered system of community and home care services.

(7) Evaluate programs for financing services to those in need of a continuum of care.

(8) Evaluate state expenditures for community and home care services, taking into account efficiency, consumer choice, competition, and equal access to providers.

(9) Develop policies that support the participation of families

and volunteers in meeting the long term care needs of individuals.

(10) Encourage the development of funding for a continuum of care from private resources, including insurance.

(11) Develop a cost of services basis and a program of cost reimbursement for those persons who can pay all or a part of the cost of the services rendered. The division shall use this cost of services basis and program of cost reimbursement in administering IC 12-10-10. The cost of services basis and program of cost reimbursement must include a client cost share formula that:

(A) imposes no charges for an eligible individual whose income does not exceed one hundred fifty percent (150%) of the federal income poverty level; and

(B) does not impose charges for the total cost of services provided to an individual under the community and home options to institutional care for the elderly and disabled program unless the eligible individual's income exceeds three hundred fifty percent (350%) of the federal income poverty level.

The calculation of income for an eligible individual must include the deduction of the individual's medical expenses and the medical expenses of the individual's spouse and dependent children who reside in the eligible individual's household.

(12) Establish long term goals for the provision of guardianship services for adults.

(13) Coordinate activities and programs with the activities of other boards and state agencies concerning the provision of guardianship services.

(14) Recommend statutory changes affecting the guardianship of indigent adults.

(15) Review a proposed rule concerning home and community based services as required under section 9 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.77-1994, SEC.1; P.L.114-1997, SEC.1; P.L.24-1997, SEC.29; P.L.137-2005, SEC.2; P.L.99-2007, SEC.65; P.L.143-2011, SEC.12.

IC 12-10-11-9

Board review of proposed rules on home and community based care; failure for review voids rules; rules subject to public comment; request to modify or withdraw rule

Sec. 9. (a) The board shall be given the opportunity to review a proposed rule concerning home and community based services for:

(1) elderly individuals; or

(2) individuals with disabilities;

at least three (3) months before a proposed rule may be published in the Indiana Register.

(b) If the proposing agency fails to give the board the opportunity to review a proposed rule described in subsection (a), the rule:

(1) is void; and

(2) must be withdrawn by the proposing agency.

(c) The board may determine that the proposed rule reviewed by the board under this section should be subject to a public comment period. If the board makes a determination that a public comment period is necessary, the board shall set the:

(1) date and time;

(2) location; and

(3) format;

of the public comment period for the proposed rule.

(d) After a public hearing, if the board determines that a proposed rule is substantially out of compliance with state law governing home and community based services, the board shall request that the agency proposing the rule modify or withdraw the proposed rule. If a proposed rule is modified under this subsection, the modified rule must be reviewed by the board.

As added by P.L.137-2005, SEC.3.

IC 12-10-11.5

Chapter 11.5. Long Term Care Services

IC 12-10-11.5-1

"Institution"

Sec. 1. As used in this chapter, "institution" means any of the following:

(1) A health facility licensed under IC 16-28.

(2) An intermediate care facility for the mentally retarded.

As added by P.L.274-2003, SEC.5.

IC 12-10-11.5-2

Subjectivity; responsibility of ensuring costs

Sec. 2. (a) This chapter is subject to funding available to the office of the secretary of family and social services.

(b) The secretary and the director of the state budget agency are responsible for ensuring that the cost of the services provided under this chapter does not exceed the total amount of funding, including state and federal funds, that is made available by the budget agency for the program established under this chapter to provide long term care, including home and community based services.

As added by P.L.274-2003, SEC.5.

IC 12-10-11.5-3

Establishment of home and community based long term care services

Sec. 3. The office of the secretary of family and social services shall establish a comprehensive program of home and community based long term care services to provide eligible individuals with care that is not more costly than services provided to similarly situated individuals who reside in institutions.

As added by P.L.274-2003, SEC.5.

IC 12-10-11.5-4

Eligibility

Sec. 4. An individual who has resided in the state for at least ninety (90) days shall be eligible for the home and community based long term care services program if the individual:

(1) participates in, or has been determined to be eligible for, the community and home options to institutional care for the elderly and disabled program established by IC 12-10-10-6; or

(2) meets the following requirements, which must meet the general eligibility standards for an individual receiving services under a home and community based Medicaid waiver:

(A) Has an income of not more than three hundred percent (300%) of the federal Supplemental Security Income level.

(B) Is unable to perform at least three (3) activities of daily living determined by an assessment conducted by an area agency on aging case manager or any other agency the state has contracted with to perform assessments.

(C) Is at risk of being placed in an institution or is currently residing in an institution and has been determined to be eligible for services under IC 12-10-10 or under a home and community based Medicaid waiver.

As added by P.L.274-2003, SEC.5.

IC 12-10-11.5-5

Access to services

Sec. 5. The state shall provide access to the following long term care services that are appropriate and needed for an individual who is eligible for these services under this chapter:

(1) Any home and community based service that is available through:

(A) the community and home options to institutional care for the elderly and disabled program; or

(B) any state Medicaid waiver.

(2) Personal care services.

(3) Self-directed care.

(4) Assisted living.

(5) Adult foster care.

(6) Adult day care services.

(7) The provision of durable medical equipment or devices.

(8) Housing modifications.

(9) Adaptive medical equipment and devices.

(10) Adaptive nonmedical equipment and devices.

(11) Any other service that is necessary to maintain an individual in a home and community based setting.

As added by P.L.274-2003, SEC.5.

IC 12-10-11.5-6

Determination of savings; report

Sec. 6. (a) The office of the secretary of family and social services shall annually determine any state savings generated by home and community based services under this chapter by reducing the use of institutional care.

(b) The secretary shall annually report to the governor, the budget agency, the budget committee, the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4, and the executive director of the legislative services agency the savings determined under subsection (a). A report under this subsection to the executive director of the legislative services agency must be in an electronic format under IC 5-14-6.

(c) Savings determined under subsection (a) may be used to fund the state's share of additional home and community based Medicaid waiver slots.

As added by P.L.274-2003, SEC.5. Amended by P.L.28-2004, SEC.92; P.L.97-2004, SEC.50; P.L.205-2013, SEC.182; P.L.53-2014, SEC.98.

IC 12-10-11.5-7

Use of volunteers

Sec. 7. When possible, the office of the secretary of family and social services shall make use of volunteers and volunteer groups, including faith based groups, when executing its duties under this chapter.

As added by P.L.274-2003, SEC.5.

IC 12-10-12

Chapter 12. Health Facility Preadmission Screening

IC 12-10-12-1

"Agency"

Sec. 1. As used in this chapter, "agency" means the area agency on aging designated by the division to carry out this chapter in the agency's established administrative region.

As added by P.L.2-1992, SEC.4. Amended by P.L.150-1995, SEC.16; P.L.154-1995, SEC.5.

IC 12-10-12-2

"Designee"

Sec. 2. As used in this chapter, "designee" refers to an individual who is designated by the director of the agency under section 27 of this chapter.

As added by P.L.2-1992, SEC.4.

IC 12-10-12-3

"Health facility"

Sec. 3. As used in this chapter, "health facility" means a facility:

(1) that is licensed by the state department of health under IC 16-28; and

(2) that:

(A) provides comprehensive nursing care, room, food, laundry, administration of medications, special diets, and treatments; and

(B) may provide rehabilitative and restorative therapies;

under the order of an attending physician.

As added by P.L.2-1992, SEC.4. Amended by P.L.2-1993, SEC.82.

IC 12-10-12-4

"Office"

Sec. 4. As used in this chapter, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6.5-1.

As added by P.L.2-1992, SEC.4. Amended by P.L.160-2012, SEC.28.

IC 12-10-12-5

Admission to nursing facility; screening and approval; assessment for specialized services

Sec. 5. (a) Except as provided in sections 27 through 31 of this chapter, an individual who is admitted to a nursing facility must first have been screened and approved for placement under the nursing facility preadmission screening program described in this chapter.

(b) An individual who is identified by the screening team under section 16 of this chapter as an individual with a developmental disability or an individual who is mentally ill (as defined in 42 U.S.C. 1396r(e)(7)) must be assessed to determine the appropriateness of nursing facility placement and the need for specialized services.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.2;

P.L.1-1993, SEC.98; P.L.99-2007, SEC.66.

IC 12-10-12-6
Prior approval for nursing facility admission

Sec. 6. (a) This subsection does not apply after December 30, 2008. If an individual who is discharged from a hospital licensed under IC 16-21:

(1) is admitted to a nursing facility after the individual has been screened under the nursing facility preadmission program described in this chapter; and

(2) is eligible for participation in the federal Medicaid program;

prior approval of the individual's admission to the nursing facility may not be required by the office under IC 12-15-21-1 through IC 12-15-21-3.

(b) This subsection applies beginning December 31, 2008. If an individual:

(1) is admitted to a nursing facility after the individual has been screened under the nursing facility preadmission program described in this chapter; and

(2) is eligible for participation in the federal Medicaid program;

prior approval of the individual's admission to the nursing facility may be required by the office under IC 12-15-21-1 through IC 12-15-21-3.

(c) The office shall adopt rules under IC 4-22-2 to implement:

(1) subsection (b);

(2) a screening and counseling program for individuals seeking long term care services; and

(3) a biennial review of Medicaid waiver reimbursement rates.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.3; P.L.2-1993, SEC.83; P.L.50-2007, SEC.1; P.L.121-2008, SEC.3.

IC 12-10-12-7
Application; necessary information

Sec. 7. (a) An individual or the individual's parent or guardian, if the individual is not competent, who is required to be screened and approved under this chapter shall apply to the agency serving the county of the individual's residence for participation in a nursing facility preadmission screening program.

(b) The individual or the individual's parent or guardian if the individual is not competent shall provide the agency with the following:

(1) The individual's name.

(2) The address of the place where the screening team described in section 14 of this chapter may contact the individual.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.4.

IC 12-10-12-8
Notification to applicant

Sec. 8. A nursing facility shall provide:

(1) an individual who applies for admission to the nursing

facility; or

(2) the individual's parent or guardian if the individual is not competent;

a notification that meets the requirements of sections 9 and 10 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.5.

IC 12-10-12-9

Notification form

Sec. 9. The notification required under section 8 of this chapter must be in writing on standardized forms prepared by the division and provided to the nursing facilities.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.6.

IC 12-10-12-10

Notification contents; acknowledgment by applicant; copies; violation

Sec. 10. (a) The notification required under section 8 of this chapter must notify the applicant of the following:

(1) That the applicant is required under state law to apply to the agency serving the county of the applicant's residence for participation in a nursing facility preadmission screening program.

(2) That the applicant's failure to participate in the nursing facility preadmission screening program could result in the applicant's ineligibility for Medicaid reimbursement for per diem in any nursing facility for not more than one (1) year.

(3) That the nursing facility preadmission screening program consists of an assessment of the applicant's need for care in a nursing facility made by a team of individuals familiar with the needs of individuals seeking admission to nursing facilities.

(4) The contact information for the agency that provides services in the area in which the nursing facility is located.

(5) A list developed by the agency of all known long term care options that may be available to the individual.

(b) The notification must be signed by the applicant or the applicant's parent or guardian if the applicant is not competent before admission.

(c) If the applicant is admitted:

(1) the nursing facility shall retain one (1) signed copy of the notification for one (1) year; and

(2) the nursing facility shall deliver one (1) signed copy to the agency serving the county in which the applicant resides.

(d) A person who violates this section commits a Class A infraction.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.7; P.L.18-2012, SEC.1.

IC 12-10-12-11

Time limitations

Sec. 11. Each individual who is required to be screened and approved before admission to a nursing facility shall be screened, within the time permitted under this chapter, by the screening team described in section 14 of this chapter.
As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.8.

IC 12-10-12-12
Screening team; uniform rules
Sec. 12. (a) The activities of the screening team must be conducted under uniform rules adopted under IC 4-22-2 by the director of the division.
(b) The rules must be developed in cooperation with the division of mental health and addiction and the office.
As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.9; P.L.215-2001, SEC.38.

IC 12-10-12-13
Screening team; requirements
Sec. 13. The nursing facility preadmission screening program shall be conducted by a screening team that meets the requirements of section 14 of this chapter.
As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.10.

IC 12-10-12-14
Screening team; membership; coordinator
Sec. 14. (a) A screening team must consist of two (2) members.
(b) An applicant's physician shall participate as a member of the screening team.
(c) The agency that serves the county of the applicant's residence shall, subject to the approval of the division, also appoint an individual who:
(1) represents the agency serving the area in which the applicant's residence is located; and
(2) is familiar with personal care assessment.
(d) The agency shall, subject to the approval of the division, appoint one (1) of the individuals under subsection (c) to be the coordinator.
As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.11.

IC 12-10-12-15
Multiple screening teams
Sec. 15. More than one (1) screening team may be appointed.
As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.12.

IC 12-10-12-16
Screening program assessments
Sec. 16. (a) A screening team shall conduct a nursing facility preadmission screening program for each individual within the time permitted under this chapter. The program must consist of an assessment of the following:

(1) The individual's medical needs.
(2) The availability of services, other than services provided in a nursing facility, that are appropriate to the individual's health and social needs to maintain the individual in the least restrictive environment.
(3) The cost effectiveness of providing services appropriate to the individual's needs that are provided outside of, rather than within, a nursing facility.

(b) The assessment must be conducted in accordance with rules adopted under IC 4-22-2 by the director of the division in cooperation with the office.

(c) Communication among members of a screening team or between a screening team and the division, the office, or the agency during the prescreening process may be conducted by means including any of the following:
(1) Standard mail.
(2) Express mail.
(3) Facsimile machine.
(4) Secured electronic communication.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.13; P.L.115-1997, SEC.1; P.L.121-2008, SEC.4; P.L.18-2012, SEC.2.

IC 12-10-12-17
Findings; appropriateness of placement

Sec. 17. After an assessment is completed, the screening team shall find, by both members of the team, whether the placement of the individual in a nursing facility is appropriate.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.14.

IC 12-10-12-18
Review of findings; final determinations

Sec. 18. The office shall do the following:
(1) Review a screening team's finding.
(2) Make the final determination only in the following cases:
(A) Where the individual is eligible for Medicaid.
(B) Members of the screening team disagree.
(C) A placement is denied.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.15.

IC 12-10-12-19
Mandatory placement; conditions

Sec. 19. Placement in a nursing facility may not be denied if any of the following conditions exist:
(1) Community services that would be more appropriate than care in a nursing facility are not actually available.
(2) The cost of appropriate community services would exceed the cost of placement in a nursing facility.
(3) The applicant:
(A) has been determined to be eligible for assistance under the federal Medicaid program (42 U.S.C. 1396 et seq.);

(B) needs a service that would make the applicant's placement in a nursing facility inappropriate when the service cannot be provided without the use of a new service made available under a home and community based services waiver approved by the Secretary of Health and Human Services under 42 U.S.C. 1396n; and

(C) chooses not to receive the service described under clause (B).

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.16; P.L.150-1995, SEC.17; P.L.154-1995, SEC.6.

IC 12-10-12-20

Notice of determination; contents

Sec. 20. (a) The agency shall provide the applicant with a written notice of the office's determination made under section 18 of this chapter if the placement is appropriate. The office shall provide written notice of a determination made under section 16 of this chapter when placement in a nursing facility is denied.

(b) If the office determines that an individual's placement in a nursing facility is not appropriate, the written notice must contain the following:

(1) The reasons for the office's determination.

(2) A detailed description of services available to the individual that, if used by the individual, make the placement of the individual in a nursing facility inappropriate.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.17.

IC 12-10-12-21

Administrative appeal of determination

Sec. 21. An applicant aggrieved by a determination of the office may appeal the determination under rules concerning the appeal that are adopted by the office under IC 4-22-2.

As added by P.L.2-1992, SEC.4.

IC 12-10-12-22

Judicial appeal

Sec. 22. After exhausting all administrative remedies, the applicant may obtain judicial review under IC 4-21.5-5.

As added by P.L.2-1992, SEC.4.

IC 12-10-12-23

Waiver of sanctions; conditions; application

Sec. 23. An applicant may apply to the office for a waiver of the sanctions imposed by section 33 or 34 of this chapter if the following conditions are met:

(1) The applicant has made an appropriate application under section 7 of this chapter.

(2) The office has not provided the applicant with the notice required under section 20 of this chapter within twenty-five (25) days of the date the application was made under section 7 of this

chapter.

(3) The applicant, the applicant's physician, and the applicant's current custodian have cooperated with the screening team.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.18.

IC 12-10-12-24

Determination on application for waiver of sanctions

Sec. 24. If the office finds that an applicant has filed an application for a waiver and has met the three (3) conditions set out in section 23 of this chapter, the office shall, not later than the second working day following the receipt of the application for a waiver, either:

(1) issue the notice required by section 20 of this chapter; or

(2) waive the sanctions imposed by sections 33 and 34 of this chapter.

As added by P.L.2-1992, SEC.4.

IC 12-10-12-25

Administrative rules for preadmission screening assessment

Sec. 25. The office shall adopt rules under IC 4-22-2 to permit an individual who has not applied for admission to a nursing facility to be assessed under section 16 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.19.

IC 12-10-12-26

Information gathering by division

Sec. 26. The division shall collect the information necessary to do the following:

(1) Determine the effectiveness of the preadmission screening program.

(2) Identify barriers to diversion of individuals to in-home care.

(3) Identify needs that may exist for additional in-home services.

As added by P.L.2-1992, SEC.4.

IC 12-10-12-27

Designatory empowered to authorize unapproved temporary admissions

Sec. 27. (a) The agency shall, subject to the approval of the division, designate at least one (1) individual who may authorize temporary admittance to a nursing facility under:

(1) subsection (b); and

(2) sections 28, 30, and 31 of this chapter;

without the approval required under this chapter.

(b) An individual designated under subsection (a) may authorize temporary admittance to a nursing home for a resident of Indiana if the resident:

(1) has received treatment from and is being discharged from a hospital that is located in a state other than Indiana; and

(2) will be participating in preadmission screening under this

chapter.

(c) Notwithstanding a rule adopted under section 12 of this chapter, a screening team appointed to screen a nonresident under this section must:

(1) conduct its assessment under section 16 of this chapter; and

(2) report its findings;

within ten (10) days after its appointment.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.20; P.L.278-1993(ss), SEC.25; P.L.115-1997, SEC.2.

IC 12-10-12-27.1

Temporary admissions of nonresidents

Sec. 27.1. An individual designated under section 27(a) of this chapter may authorize temporary admittance to a nursing home for a nonresident of Indiana if the nonresident:

(1) was admitted to the hospital immediately after receiving treatment in the hospital's emergency department;

(2) has received treatment from and is being discharged from a hospital licensed under IC 16-21; and

(3) will be participating in preadmission screening under this chapter.

As added by P.L.115-1997, SEC.3.

IC 12-10-12-28

Temporary admissions; grounds; limitations; regular assessment

Sec. 28. (a) An individual may be admitted directly to a nursing facility from an inpatient bed of a community mental health center, a managed care provider (as defined in IC 12-7-2-127(b)), a state institution, or a hospital licensed under IC 16-21, subject to the requirements of 42 U.S.C. 1396r(e)(7), if, after the assessment required by section 16 of this chapter is substantially complete, the designee makes a finding that services necessary to care for the individual outside of the center or hospital are not at that time available except in a nursing facility.

(b) The individual may remain in the nursing facility for the number of days designated by the designee without the approval required by this chapter.

(c) The number of days designated by the designee may not exceed the lesser of:

(1) the individual's estimated recovery time, plus twenty-five (25) days; or

(2) one hundred twenty (120) days.

(d) During the period under subsection (c), the assessment shall be modified and completed according to the individual's current needs and the determination of appropriate placement made under sections 16 and 17 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.21; P.L.2-1993, SEC.84; P.L.40-1994, SEC.20.

IC 12-10-12-28.5

List of long term care options provided to patients before discharge from hospitals

Sec. 28.5. (a) Before discharging a patient who will be participating in preadmission screening under this chapter, a hospital licensed under IC 16-21 shall give the patient a list of all long term care options that:

(1) may be available to the patient;

(2) are located within the hospital's service area; and

(3) are known to the hospital.

(b) The list described in subsection (a) must include the following:

(1) The name, address, and telephone number of the agency that provides services in the area in which the hospital is located.

(2) A statement that the agency provides information concerning long term care options, including home health care.

As added by P.L.115-1997, SEC.4. Amended by P.L.18-2012, SEC.3.

IC 12-10-12-29

Repealed

(Repealed by P.L.78-1992, SEC.28.)

IC 12-10-12-30

Admission upon probability of early discharge; limitations on obtaining approval

Sec. 30. (a) An individual may be admitted to a nursing facility if the designee determines that it is probable that the individual will be discharged from the nursing facility within thirty (30) days of the individual's admission.

(b) If the individual:

(1) desires to remain in a nursing facility for more than thirty (30) days; and

(2) applies for approval under this chapter before the expiration of the thirty (30) days;

the individual has an additional twenty-five (25) days in which to obtain the approval.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.22.

IC 12-10-12-31

Preapproval admission; grounds

Sec. 31. An individual who has applied for approval under this chapter may be admitted before approval is granted if the designee determines that there will be serious harm to the physical or mental health of the individual if the individual is required to wait for approval.

As added by P.L.2-1992, SEC.4.

IC 12-10-12-32

Stay following unapproved admission; duration

Sec. 32. An individual may remain in a nursing facility for not more than twenty-five (25) days without approval under this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.23.

IC 12-10-12-33
Medicaid assistance predicated upon preadmission screening and approval; intermediate care facility

Sec. 33. If an individual:

(1) does not participate in the health facility preadmission screening program described in this chapter; or

(2) participates in the health facility preadmission screening program described in this chapter and is notified under section 20 of this chapter that the individual's placement in a health facility is not appropriate;

the individual is not eligible for assistance under the federal Medicaid program (42 U.S.C. 1396 et seq.) for the payment of any part of the cost per diem provided to the individual in a part of a health facility certified as an intermediate care facility for one (1) year after the date of the individual's admission to the health facility.

As added by P.L.2-1992, SEC.4.

IC 12-10-12-34
Medicaid assistance predicated upon preadmission screening and approval; skilled health facility

Sec. 34. If an individual:

(1) refuses to participate in the health facility preadmission screening program described in this chapter; or

(2) participates in the health facility preadmission screening program described in this chapter and is notified under section 20 of this chapter that the individual's placement in a health facility is not appropriate;

the individual is not eligible for assistance under the federal Medicaid program (42 U.S.C. 1396 et seq.) for the payment of any part of the cost per diem provided to the individual in a part of a health facility certified as a skilled health facility until the individual has participated in the health facility preadmission screening program and has been notified that placement in a health facility certified to provide skilled care is appropriate.

As added by P.L.2-1992, SEC.4.

IC 12-10-13
Chapter 13. Long Term Care Ombudsman Program

IC 12-10-13-1
Repealed
(Repealed by P.L.139-1993, SEC.24.)

IC 12-10-13-2
Repealed
(Repealed by P.L.139-1993, SEC.24.)

IC 12-10-13-3
Home care services
Sec. 3. As used in this chapter, "home care services" means in-home services funded through any of the following:
(1) The office of Medicaid policy and planning.
(2) A county office.
(3) The division.
As added by P.L.2-1992, SEC.4. Amended by P.L.139-1993, SEC.5; P.L.4-1993, SEC.39; P.L.5-1993, SEC.52.

IC 12-10-13-3.3
Legal representative
Sec. 3.3. As used in this chapter, "legal representative" means:
(1) a guardian;
(2) a health care representative acting under IC 16-36-1;
(3) an attorney-in-fact for health care appointed under IC 30-5-5-16;
(4) an attorney-in-fact appointed under IC 30-5-5 who does not hold health care powers; or
(5) the personal representative of the estate;
of a resident of a long term facility or client of home care services.
As added by P.L.139-1993, SEC.6. Amended by P.L.1-1994, SEC.54.

IC 12-10-13-3.6
Long term care facility
Sec. 3.6. As used in this chapter, "long term care facility" means either of the following:
(1) A facility licensed under or subject to IC 16-28-2.
(2) An adult care home.
As added by P.L.139-1993, SEC.7. Amended by P.L.2-1995, SEC.47.

IC 12-10-13-4
Office
Sec. 4. As used in this chapter, "office" refers to the long term care ombudsman office established by this chapter. The term includes individuals approved to act in the capacity of ombudsmen by the long term care ombudsmen office.
As added by P.L.2-1992, SEC.4. Amended by P.L.139-1993, SEC.8.

IC 12-10-13-4.5
Ombudsman

Sec. 4.5. As used in this chapter, "ombudsman" means an employee of the office or an individual approved by the office to investigate and resolve complaints and concerns regarding the health, safety, welfare, or rights of residents or clients under 42 U.S.C. 3027 and this chapter.

As added by P.L.139-1993, SEC.9.

IC 12-10-13-5
Repealed

(Repealed by P.L.139-1993, SEC.24.)

IC 12-10-13-6
State ombudsman

Sec. 6. As used in this chapter, "state ombudsman" refers to the individual who directs the long term care ombudsman office.

As added by P.L.2-1992, SEC.4. Amended by P.L.139-1993, SEC.10.

IC 12-10-13-7
Establishment of office

Sec. 7. The division shall establish the long term care ombudsman office in compliance with 42 U.S.C. 3027.

As added by P.L.2-1992, SEC.4.

IC 12-10-13-8
State ombudsman; appointment

Sec. 8. Subject to sections 10 through 12 of this chapter, the director of the division shall appoint the state long term care ombudsman to direct the office on a full-time basis.

As added by P.L.2-1992, SEC.4. Amended by P.L.139-1993, SEC.11.

IC 12-10-13-9
Vacancy

Sec. 9. The director shall appoint an acting state ombudsman within thirty (30) days of a vacancy in the position of state ombudsman. The acting state ombudsman has the powers and duties of the state ombudsman.

As added by P.L.2-1992, SEC.4.

IC 12-10-13-10
Qualifications

Sec. 10. The state ombudsman must have familiarity with the following:

(1) Gerontology or long term care.
(2) The legal system.
(3) Dispute or problem resolution techniques, including investigation, mediation, and negotiation.

As added by P.L.2-1992, SEC.4.

IC 12-10-13-11
State ombudsman; eligibility; employment by health facility or home care service organization

Sec. 11. The director may not appoint as state ombudsman an individual who has been employed by a long term care facility or a home care service organization within one (1) year preceding the director's proposed appointment.

As added by P.L.2-1992, SEC.4. Amended by P.L.139-1993, SEC.12.

IC 12-10-13-12
State ombudsman; eligibility; pecuniary interest in health facility or home care service organization

Sec. 12. The state ombudsman and a member of the state ombudsman's immediate family may not have had a pecuniary interest in a long term care facility or a home care service organization within three (3) years preceding the director's proposed appointment.

As added by P.L.2-1992, SEC.4. Amended by P.L.139-1993, SEC.13.

IC 12-10-13-13
Technical experts; staff

Sec. 13. The state ombudsman may employ technical experts and other employees to carry out the purposes of the office.

As added by P.L.2-1992, SEC.4.

IC 12-10-13-14
Investigation and resolution of complaints and concerns

Sec. 14. (a) The office shall receive, investigate, and attempt to resolve complaints and concerns that:

(1) are made by or on behalf of a patient, resident, or client of a long term care facility or a home care service, except for an individual with a developmental disability who is receiving waiver services; and

(2) involve the health, safety, welfare, or rights of a resident or client.

(b) At the conclusion of an investigation of a complaint, the office shall report the office's findings to the complainant.

As added by P.L.2-1992, SEC.4. Amended by P.L.139-1993, SEC.14; P.L.272-1999, SEC.32.

IC 12-10-13-15
Report of findings

Sec. 15. At the conclusion of an investigation of a complaint, the office shall report the office's findings to the complainant.

As added by P.L.2-1992, SEC.4.

IC 12-10-13-16
Decision not to investigate; notice

Sec. 16. If the office does not investigate a complaint, the office shall notify the complainant of the decision not to investigate and the

reasons for the decision.
As added by P.L.2-1992, SEC.4. Amended by P.L.139-1993, SEC.15.

IC 12-10-13-16.2
Ombudsman; access to persons, places, records, and other information

Sec. 16.2. In accordance with this chapter, an ombudsman must be provided access to the following:

(1) Long term care facilities, entities that provide home care services, and the residents or clients of the long term care facilities or entities that provide home care services.

(2) As provided in section 16.4 of this chapter, a resident's or client's medical, financial, and social records.

(3) If the resident or client is incapable of giving consent, as determined by the attending physician or as otherwise determined under state law, the name, address, and telephone number of the resident's or client's legal representative.

As added by P.L.139-1993, SEC.16.

IC 12-10-13-16.4
Ombudsman; access to medical, financial, and social records of resident or client; consent

Sec. 16.4. (a) An ombudsman must be provided access to a resident's or client's medical, financial, and social records. Except as provided in subsections (c) and (d), the ombudsman must obtain consent under subsection (b) before having access to the records.

(b) Consent to have access to a resident's or client's medical, financial, and social records shall be given in one (1) of the following forms:

(1) In writing by the resident or client.

(2) Orally by the resident or client in the presence of a witness.

(3) In writing by the legal representative of the resident or client if:

(A) the resident or client is incapable of giving consent, as determined by the attending physician or as otherwise determined under state law; and

(B) the legal representative has the authority to give consent.

(c) If consent to have access to a resident's or client's medical, financial, and social records cannot be obtained under subsection (b), an ombudsman may inspect the records of a resident or client if the resident or client is incapable of giving consent, as determined by the attending physician or as otherwise determined under state law, and:

(1) has no legal representative;

(2) has a legal representative but the legal representative cannot be contacted within three (3) days; or

(3) has a legal representative but the legal representative does not have the authority to give consent to have access to the records.

(d) If an ombudsman has:

(1) been denied access to a resident's or client's medical,

financial, and social records by the resident's or client's legal representative;

(2) reasonable cause to believe that the resident's or client's legal representative is not acting in the best interests of the resident or client; and

(3) received written approval from the state ombudsman;

the ombudsman may inspect the records of the resident or client.

As added by P.L.139-1993, SEC.17.

IC 12-10-13-16.5

Ombudsman; access to records of long term care facility or home care service

Sec. 16.5. An ombudsman shall be given appropriate access to the records of a long term care facility or home care service.

As added by P.L.139-1993, SEC.18.

IC 12-10-13-16.6

Ombudsman; access to records of state or local government agency or entity

Sec. 16.6. A state or local government agency or entity that has records that are relevant to a complaint or an investigation conducted by an ombudsman shall provide the ombudsman with access to the records.

As added by P.L.139-1993, SEC.19.

IC 12-10-13-16.7

Long term care facility, home care service, or employee; disclosure of records; immunity from liability

Sec. 16.7. A long term care facility or home care service or an employee of a long term care facility or home care service is immune from:

(1) civil or criminal liability; and

(2) actions taken under a professional disciplinary procedure;

for the release or disclosure of records to an ombudsman under this chapter.

As added by P.L.139-1993, SEC.20.

IC 12-10-13-16.8

Coordination among government agencies; toll free telephone number for reporting problems; nondisclosure of identity of complainant, resident, or client

Sec. 16.8. The office shall do the following:

(1) Promote effective coordination between the office and the following:

(A) Programs that provide legal services for the elderly.

(B) The adult protective services program.

(C) The attorney general's division of Medicaid fraud.

(D) The state department of health.

(E) Indiana protection and advocacy services.

(2) Establish a statewide toll free telephone line to receive

reports of problems about long term care facilities or home care services.

(3) Ensure that the identity of a complainant, resident, or client will not be disclosed without:

(A) the complainant's, resident's, or client's written consent; or

(B) a court order.

As added by P.L.139-1993, SEC.21.

IC 12-10-13-17
Rules

Sec. 17. The director of the division shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.2-1993, SEC.86; P.L.139-1993, SEC.22.

IC 12-10-13-18
Civil immunity

Sec. 18. A representative of the office is not civilly liable for the good faith performance of official duties.

As added by P.L.2-1992, SEC.4.

IC 12-10-13-19
Annual report; distribution

Sec. 19. (a) The office shall prepare a report each year on the operations of the office.

(b) A copy of the report shall be provided to the following:

(1) The governor.

(2) The general assembly. The report must be in an electronic format under IC 5-14-6.

(3) The division.

(4) The federal Commissioner on Aging.

(5) Each area agency on aging.

(6) The state department of health.

As added by P.L.2-1992, SEC.4. Amended by P.L.28-2004, SEC.93.

IC 12-10-13-20
Violations

Sec. 20. A person who:

(1) intentionally prevents the work of the office;

(2) knowingly offers compensation to the office in an effort to affect the outcome of an investigation or a potential investigation; or

(3) retaliates against a resident, a client, an employee, or another person who files a complaint or provides information to the office;

commits a Class B misdemeanor.

As added by P.L.2-1992, SEC.4. Amended by P.L.139-1993, SEC.23.

IC 12-10-14

Chapter 14. Representative Payees and Bill Payers

IC 12-10-14-1

"Bill payer" defined

Sec. 1. As used in this chapter, "bill payer" means a person appointed by the bureau under this chapter to provide one (1) or more of the following services in order to assist a low income individual who is able to make responsible decisions about financial matters but needs assistance:

(1) Paying bills each month and keeping records.

(2) Establishing a budget.

(3) Opening, organizing, and sending out mail.

(4) Assisting the individual in check writing, with all checks to be signed by the individual.

(5) Balancing checkbooks.

(6) Making referrals to other agencies when necessary.

As added by P.L.141-1993, SEC.1.

IC 12-10-14-2

"Representative payee" defined

Sec. 2. As used in this chapter, "representative payee" means a person appointed by the United States Social Security Administration, the United States Office of Personnel Management, the United States Department of Veterans Affairs, or the United States Railroad Retirement Board to provide one (1) or more of the following financial management services in order to assist an individual who is receiving government benefits and is medically incapable of making responsible financial decisions:

(1) Spending benefits received by the individual in the individual's best interests as necessary to provide for food, shelter, utilities, medical care, and personal needs.

(2) Keeping an accurate record of all financial transactions.

(3) Maintaining control over the individual's benefits and signing all checks for the individual's expenditures.

(4) Referring the individual to other agencies if the individual needs additional assistance.

As added by P.L.141-1993, SEC.1. Amended by P.L.24-1997, SEC.30.

IC 12-10-14-3

Establishment of program; eligibility

Sec. 3. The division may establish, within the bureau, a representative payee and bill payer program to assist low income individuals who:

(1) are not able to manage their financial matters; and

(2) do not have relatives or friends to assist them in managing their financial matters.

As added by P.L.141-1993, SEC.1.

IC 12-10-14-4
Administration of program

Sec. 4. The bureau may administer the program. The bureau may provide staff and logistical support for the program, including office space, telephone communications, office supplies, and postage.
As added by P.L.141-1993, SEC.1.

IC 12-10-14-5
Training

Sec. 5. The bureau may provide for the training of representative payees and bill payers.
As added by P.L.141-1993, SEC.1.

IC 12-10-14-6
Repealed

(Repealed by P.L.24-1997, SEC.66.)

IC 12-10-14-7
Assistance to representative payees and bill payers; bank services

Sec. 7. The bureau may assist representative payees and bill payers and may negotiate bank services for the program.
As added by P.L.141-1993, SEC.1.

IC 12-10-14-8
Public liaisons; spreading of information; referral of potential clients

Sec. 8. The bureau may designate volunteers, who may be representative payees or bill payers, as public liaisons to inform interested agencies and persons about the program and to undertake to increase public awareness of the program and referral of potential clients to the program.
As added by P.L.141-1993, SEC.1.

IC 12-10-14-9
Fiduciary duties of representative payees and bill payers

Sec. 9. A person acting as a representative payee or a bill payer is considered to be acting in a fiduciary capacity and is liable for acts or omissions constituting a breach of fiduciary duties imposed by law.
As added by P.L.141-1993, SEC.1.

IC 12-10-14-10
Legal counsel

Sec. 10. The bureau may enter into a memorandum of understanding with legal counsel for an association that represents the interests of retired persons to obtain assistance for the representative payee and bill payer program.
As added by P.L.141-1993, SEC.1.

IC 12-10-14-11

Local programs; sponsors and coordinators; training, assistance, and monitoring by bureau

Sec. 11. (a) The bureau may enter into memoranda of understanding with local representative payee and bill payer program sponsors allowing local sponsors to administer a local representative payee and bill payer program with the bureau assisting and monitoring the local program sponsor.

(b) The bureau may designate a local program sponsor with a local coordinator to assist in the administration of a local program. A local program sponsor designated under this subsection must have a local advisory council.

(c) The bureau may provide training and technical assistance to local coordinators and local program sponsors.

As added by P.L.141-1993, SEC.1.

IC 12-10-14-12

Monitoring, audits, and review of accounts

Sec. 12. The bureau may do any of the following:

(1) Monitor:

(A) representative payees and bill payers; and

(B) local program sponsors.

(2) Audit any transaction of a representative payee and bill payer.

(3) Review bank statements and cancelled checks for accounts managed by representative payees.

As added by P.L.141-1993, SEC.1.

IC 12-10-15

Chapter 15. Filing Disclosure Documents for Housing With Services Establishments

IC 12-10-15-1

Applicability of chapter

Sec. 1. This chapter applies to a person who enters into a contract or extends the term of an existing contract with an individual to reside in a housing with services establishment.

As added by P.L.73-1998, SEC.7.

IC 12-10-15-1.5

"Administrator" defined

Sec. 1.5. As used in this chapter, "administrator" means a natural person who administers, manages, supervises, or is in general administrative charge of a housing with services establishment.

As added by P.L.184-2003, SEC.3.

IC 12-10-15-2

"Health related services" defined

Sec. 2. As used in this chapter, “health related services" means home health services as listed under IC 16-27-1-5(b) and IC 16-27-1-5(c), attendant and personal care services, professional nursing services, and the central storage and distribution of medications.

As added by P.L.73-1998, SEC.7.

IC 12-10-15-3

"Housing with services establishment" defined

Sec. 3. (a) As used in this chapter, "housing with services establishment" means an establishment providing sleeping accommodations to at least five (5) residents and offering or providing for a fee:

(1) at least one (1) regularly scheduled health related service; or

(2) at least two (2) regularly scheduled supportive services;

whether offered or provided directly by the establishment or by another person arranged for by the establishment.

(b) The term does not include the following:

(1) A comprehensive care facility licensed under IC 16-28-2.

(2) A hospital licensed under IC 16-21.

(3) A group home licensed under IC 31-27 or IC 12-28-4.

(4) An establishment that serves as a shelter for battered women or other similar purpose.

(5) Private homes in which the residents are related by kinship, law, or affinity with the person offering the services.

(6) An organized condominium, cooperative, common interest community, or owner’s association where at least eighty percent (80%) of the units that comprise the condominium, cooperative, or common interest community are occupied by individuals who are the owners, members, or shareholders of the units.

As added by P.L.73-1998, SEC.7. Amended by P.L.145-2006, SEC.69.

IC 12-10-15-4
"Operator" defined

Sec. 4. As used in this chapter, "operator" means a person that operates a housing with services establishment.
As added by P.L.73-1998, SEC.7.

IC 12-10-15-5
"Resident" defined

Sec. 5. As used in this chapter, "resident" means an individual who has a contract to reside in a housing with services establishment.
As added by P.L.73-1998, SEC.7.

IC 12-10-15-6
"Supportive services" defined

Sec. 6. As used in this chapter, "supportive services" means help with personal laundry, handling or assisting with personal funds of the residents, or arranging for medical services, health related services, or social services. The term does not include making referrals, assisting a resident in contacting a service provider of the resident's choice, or contacting a service provider in an emergency.
As added by P.L.73-1998, SEC.7.

IC 12-10-15-7
Filing of disclosure document; contents

Sec. 7. (a) An operator shall file a disclosure document for each housing with services establishment with the director. If an operator fails to file a disclosure document, the operator may not:

(1) enter into or extend the term of a contract with an individual to reside in a housing with services establishment; or

(2) use the term "assisted living" to describe the housing with services establishment's services and operations to the public.

(b) The operator's disclosure document must be filed with the director on forms prescribed by the director and must be verified by the operator. The disclosure document must contain the following information:

(1) An initial disclosure statement, as described in section 11 of this chapter.

(2) The contract to be executed between the housing with services establishment and the resident.

(3) Any other information required by the director under this chapter.

(c) An operator of a housing with services establishment that has filed a disclosure document as provided in this section shall notify the director within thirty (30) days after a change in the:

(1) business name or address of the establishment;

(2) name or mailing address of the owner or owners; or

(3) name or mailing address of the managing agent.

The director may not charge a fee for submission of the notice.

(d) An operator of a new housing with services establishment must file a disclosure document within sixty (60) days of the first occurrence of the following:

(1) The first contract with a resident is signed.

(2) The first resident moves into the housing with services establishment.

(e) Upon receipt of a disclosure document, the director shall mark the disclosure document to indicate that the document has been filed.

As added by P.L.73-1998, SEC.7.

IC 12-10-15-8

Names and mailing addresses required in disclosure document

Sec. 8. An operator shall provide the following information concerning the operator's housing with services establishment to the director with the operator's disclosure document:

(1) The business name, street address, and mailing address of the establishment.

(2) The name and mailing address of the owner or owners of the establishment. If the owner or owners are not natural persons, the operator must provide identification of the type of business entity of the owner or owners, and the name and addresses of the officers and members of the governing body, or comparable persons for other types of business entities of the owner or owners.

(3) The name and mailing address of the managing agent, whether through management agreement or lease arrangement, of the establishment, if different from the owner or owners, and the name of the on-site manager, if any.

(4) The name and address of at least one (1) individual who is responsible for dealing with the director on all matters subject to this chapter.

As added by P.L.73-1998, SEC.7. Amended by P.L.1-1999, SEC.34.

IC 12-10-15-9

Housing with services establishment contracts

Sec. 9. (a) Each resident or the resident's representative must be given a complete copy of the contract between the establishment and the resident or the resident's representative and all supporting documents and attachments and any changes whenever changes are made.

(b) A housing with services establishment contract must include the following elements in the contract or through supporting documents or attachments in clear and understandable language:

(1) Name, street address, and mailing address of the housing with services establishment.

(2) The name and mailing address of the owner or owners of the housing with services establishment and, if the owner or owners are not natural persons, identification of the type of business entity of the owner or owners.

(3) The name and mailing address of the managing agent, through management agreement or lease arrangement, of the establishment, if different from the owner or owners.

(4) A statement describing the disclosure document and licensure status, if any, of the housing with services establishment and any person providing health related services or supportive services under arrangement with the operator.

(5) The term of the contract.

(6) A description of the services to be provided to the resident in the base rate to be paid by the resident or on the resident's behalf.

(7) A description of any additional services available for an additional fee from the housing with services establishment directly or through arrangements with the establishment.

(8) The fee schedules outlining the cost of any additional services.

(9) A description of the process through which the contract may be modified, amended, or terminated.

(10) A description of the housing with services establishment's complaint resolution process available to the residents.

(11) The resident's designated representative, if any.

(12) The housing with services establishment's referral procedures if the contract is terminated.

(13) The criteria used by the housing with services establishment to determine who may continue to reside in the establishment. The criteria must address the following:

(A) When a resident must be transferred because the establishment and the resident are unable to develop a means for assuring that the resident is able to respond to an emergency in a manner that is consistent with local fire and safety requirements.

(B) When the establishment is unable to assure that the resident's physical, mental, and psychosocial needs can be met.

(14) A description of the process for assuring that the resident's needs are assessed on admission and periodically thereafter in conjunction with the resident and the resident's representative and for assuring that the resident's physical, mental, and psychosocial needs are met within the terms of the contract criteria for residence provided under subdivision (13).

(15) The billing and payment procedures and requirements.

(c) The housing with services establishment contract must state that:

(1) except as stated in the contract, residency in the housing with services establishment may not be terminated due to a change in a resident's health or care needs;

(2) the ability of a resident to engage in activities away from the establishment regardless of the time, duration, and distance of the activities may not be restricted;

(3) except to protect the rights and activities of other residents,

the housing with services establishment may not restrict the ability of the resident to have visitors and to receive family members and guests; and

(4) except as stated in the contract and identified in the disclosure document, an operator may not:

(A) restrict the ability of a resident to use a home health agency, home health provider, or case management service of the resident's choice; or

(B) require a resident to use home health services.

(d) Except where the resident's health or safety or the health or safety of others are endangered, an operator shall provide at least thirty (30) days notice to the resident or the resident's designated representative before terminating the resident's residency.

As added by P.L.73-1998, SEC.7.

IC 12-10-15-10

Annual disclosure document

Sec. 10. Unless extended by the written consent of the director, each year after the initial year in which an operator has filed a disclosure document under section 7 of this chapter, the operator shall file with the director within four (4) months after the end of the operator's fiscal year an annual disclosure document.

As added by P.L.73-1998, SEC.7.

IC 12-10-15-11

Amendment of disclosure document

Sec. 11. (a) An operator shall amend its initial disclosure document filed with the director under sections 7 and 8 of this chapter at any time if necessary to prevent the initial or annual disclosure document from containing any material misstatement of fact or omission of a material fact.

(b) Upon the sale of a housing with services establishment to a new owner, the new owner shall amend the currently filed disclosure document to reflect the fact of sale and any other fact that is required to be disclosed in the disclosure document.

As added by P.L.73-1998, SEC.7.

IC 12-10-15-12

Standardized disclosure document

Sec. 12. (a) The director shall develop a standardized disclosure document to be filed by the housing with services establishment.

(b) The standardized disclosure document must include the following:

(1) The name and mailing address of the owner or owners of the housing with services establishment and, if the owner or owners are not individuals, identification of the type of business entity of the owner or owners.

(2) The name and mailing address of the managing agent, through management agreement or lease arrangement, of the establishment, if different from the owner or owners.

(3) A description of the services to be provided to the resident in the base rate to be paid by the resident or on the resident's behalf.

(4) A description of additional services available for an additional fee from the establishment directly or through arrangements with the establishment.

(5) Fee schedules outlining the cost of additional services.

(6) A description of the process through which the contract may be modified, amended, or terminated.

(7) A description of the establishment's complaint resolution process available to the residents and the establishment's referral procedures if the contract is terminated.

(8) The criteria used by the establishment to determine who may continue to reside in the housing with services establishment.

(c) The disclosure document must be:

(1) provided to a prospective resident or prospective resident's legal guardian; and

(2) made readily available to a resident or a resident's legal guardian.

As added by P.L.73-1998, SEC.7.

IC 12-10-15-13

Regulatory authority of health department not affected

Sec. 13. This chapter does not preclude the authority of the state department of health to regulate:

(1) a home health agency, as provided in IC 16-27 and rules adopted under IC 16-27; or

(2) a health facility, as provided in IC 16-28 and rules adopted under IC 16-28.

As added by P.L.73-1998, SEC.7.

IC 12-10-15-14

Adoption of rules

Sec. 14. (a) The director shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

(b) The director shall adopt rules concerning the following:

(1) Procedures for the posting of notices at housing with services establishments, area agencies on aging, and centers for independent living (as defined by IC 12-12-8-1) that advise residents of their rights under this chapter.

(2) Procedures for residents and their representatives to file complaints with the director concerning violations of this chapter.

As added by P.L.73-1998, SEC.7. Amended by P.L.184-2003, SEC.4.

IC 12-10-15-15

Enforcement; penalties

Sec. 15. (a) The director shall enforce this chapter.

(b) The director may impose a penalty of not less than one hundred dollars ($100) but not more than one thousand dollars

($1,000) for each day of violation of this chapter. However, the total penalty for each violation may not exceed ten thousand dollars ($10,000).

(c) A person aggrieved by a penalty imposed under this section may request a review under IC 4-21.5-3-7. If a request for a hearing is not filed within fifteen (15) days after the penalty is imposed, the determination of the director and the penalty is final.

(d) If the director determines that a housing with services establishment has had substantial and repeated violations of this chapter, the director may prohibit a housing with services establishment from using the term "assisted living" to describe the housing with services establishment's services and operations to the public.

(e) If the director determines that an operator or administrator of a housing with services establishment has intentionally violated this chapter or has made fraudulent and material misrepresentations to a resident, the director may request the attorney general to investigate and take appropriate action against the operator or administrator.

(f) Penalties collected under this section shall be deposited in the state general fund.

As added by P.L.184-2003, SEC.5.

IC 12-10-16

Chapter 16. Indiana Prescription Drug Program

IC 12-10-16-1

"Account" defined

Sec. 1. "Account" refers to the Indiana prescription drug account established under IC 4-12-8.

As added by P.L.21-2000, SEC.8. Amended by P.L.291-2001, SEC.77.

IC 12-10-16-2

"Program" defined

Sec. 2. "Program" refers to the Indiana prescription drug program established under section 3 of this chapter.

As added by P.L.21-2000, SEC.8.

IC 12-10-16-3

Administration of program

Sec. 3. The office of the secretary shall administer a program implementing the recommendations of the prescription drug advisory committee to provide access to needed pharmaceuticals to ensure the health and welfare of Indiana's low-income senior citizens.

As added by P.L.21-2000, SEC.8.

IC 12-10-16-4

Reports on recommendations

Sec. 4. The office of the secretary shall report to the budget committee on the recommendations made by the prescription drug advisory committee.

As added by P.L.21-2000, SEC.8.

IC 12-10-16-5

Adoption of rules

Sec. 5. (a) The office may adopt rules under IC 4-22-2 to implement the program.

(b) The office may adopt emergency rules under IC 4-22-2-37.1 to implement the program on an emergency basis.

As added by P.L.21-2000, SEC.8.

IC 12-10-16-6

Payment of expenses and costs

Sec. 6. The administrative expenses and benefit costs of the program shall be paid from the account.

As added by P.L.21-2000, SEC.8. Amended by P.L.291-2001, SEC.78.

IC 12-10-17
Repealed

(Repealed by P.L.141-2006, SEC.115.)

IC 12-10-17.1

Chapter 17.1. Individuals in Need of Self-Directed In-Home Care

IC 12-10-17.1-1

Applicability of chapter

Sec. 1. This chapter does not apply to the following:

(1) An individual who provides attendant care services and who is employed by and under the direct control of a home health agency (as defined in IC 12-15-34-1).

(2) An individual who provides attendant care services and who is employed by and under the direct control of a licensed hospice program under IC 16-25.

(3) An individual who provides attendant care services and who is employed by and under the control of an employer that is not the individual who is receiving the services.

(4) A practitioner (as defined in IC 25-1-9-2) who is practicing under the scope of the practitioner's license (as defined in IC 25-1-9-3).

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-2

"Ancillary services" defined

Sec. 2. As used in this chapter, "ancillary services" means services ancillary to the basic services provided to an individual in need of self-directed in-home care who needs at least one (1) of the basic services (as defined in section 4 of this chapter). The term includes the following:

(1) Homemaker services, including shopping, laundry, cleaning, and seasonal chores.

(2) Companion services, including transportation, letter writing, mail reading, and escort services.

(3) Assistance with cognitive tasks, including managing finances, planning activities, and making decisions.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-3

"Attendant care services" defined

Sec. 3. As used in this chapter, "attendant care services" means those basic and ancillary services that the individual chooses to direct and supervise a personal services attendant to perform and that enable an individual in need of self-directed in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care, and mobility.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-4

"Basic services" defined

Sec. 4. As used in this chapter, "basic services" means a function that could be performed by the individual in need of self-directed

in-home care if the individual did not have a physical disability. The term includes the following:

(1) Assistance in getting in and out of beds, wheelchairs, and motor vehicles.

(2) Assistance with routine bodily functions, including:

(A) health related services (as defined in section 5 of this chapter);

(B) bathing and personal hygiene;

(C) dressing and grooming; and

(D) feeding, including preparation and cleanup.

As added by P.L.141-2006, SEC.44. Amended by P.L.99-2007, SEC.67.

IC 12-10-17.1-5
"Health related services" defined

Sec. 5. As used in this chapter, "health related services" means those medical activities that, in the written opinion of the attending physician submitted to the case manager of the individual in need of self-directed in-home care, could be performed by the individual if the individual were physically capable, and if the medical activities can be safely performed in the home, and:

(1) are performed by a person who has been trained or instructed on the performance of the medical activities by an individual in need of self-directed in-home care who is, in the written opinion of the attending physician submitted to the case manager of the individual in need of self-directed in-home care, capable of training or instructing the person who will perform the medical activities; or

(2) are performed by a person who has received training or instruction from a licensed health professional, within the professional's scope of practice, in how to properly perform the medical activity for the individual in need of self-directed in-home care.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-6
"Individual in need of self-directed in-home care" defined

Sec. 6. As used in this chapter, "individual in need of self-directed in-home care" means an individual with a disability, or person responsible for making health related decisions for the individual with a disability, who:

(1) is approved to receive Medicaid waiver services under 42 U.S.C. 1396n(c), or is a participant in the community and home options to institutional care for the elderly and disabled program under IC 12-10-10;

(2) is in need of attendant care services because of impairment;

(3) requires assistance to complete functions of daily living, self-care, and mobility, including those functions included in attendant care services;

(4) chooses to self-direct a paid personal services attendant to

perform attendant care services; and

(5) assumes the responsibility to initiate self-directed in-home care and exercise judgment regarding the manner in which those services are delivered, including the decision to employ, train, and dismiss a personal services attendant.

As added by P.L.141-2006, SEC.44. Amended by P.L.99-2007, SEC.68.

IC 12-10-17.1-7
"Licensed health professional" defined

Sec. 7. As used in this chapter, "licensed health professional" means any of the following:

(1) A registered nurse.
(2) A licensed practical nurse.
(3) A physician with an unlimited license to practice medicine or osteopathic medicine.
(4) A licensed dentist.
(5) A licensed chiropractor.
(6) A licensed optometrist.
(7) A licensed pharmacist.
(8) A licensed physical therapist.
(9) A licensed occupational therapist.
(10) A certified psychologist.
(11) A licensed podiatrist.
(12) A licensed speech-language pathologist or audiologist.

As added by P.L.141-2006, SEC.44. Amended by P.L.197-2007, SEC.3.

IC 12-10-17.1-8
"Personal services attendant" defined

Sec. 8. As used in this chapter, "personal services attendant" means an individual who is registered to provide attendant care services under this chapter and who has entered into a contract with an individual and acts under the individual's direction to provide attendant care services that could be performed by the individual if the individual were physically capable.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-9
"Self-directed in-home health care" defined

Sec. 9. As used in this chapter, "self-directed in-home health care" means the process by which an individual, who is prevented by a disability from performing basic and ancillary services that the individual would perform if the individual did not have a disability, chooses to direct and supervise a paid personal services attendant to perform those services in order for the individual to live in the individual's home and community rather than an institution.

As added by P.L.141-2006, SEC.44. Amended by P.L.99-2007, SEC.69.

IC 12-10-17.1-10
Registration; prohibition

Sec. 10. (a) An individual may not provide attendant care services for compensation from Medicaid or the community and home options to institutional care for the elderly and disabled program for an individual in need of self-directed in-home care services unless the individual is registered under section 12 of this chapter.

(b) An individual who is a legally responsible relative of an individual in need of self-directed in-home care, including a parent of a minor individual and a spouse, is precluded from providing attendant care services for compensation under this chapter.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-11
Registration requirement

Sec. 11. An individual who desires to provide attendant care services must register with the division or with an organization designated by the division.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-12
Registration by the division; duties of the division

Sec. 12. (a) The division shall register an individual who provides the following:

(1) A personal resume containing information concerning the individual's qualifications, work experience, and any credentials the individual may hold. The individual must certify that the information contained in the resume is true and accurate.

(2) The individual's limited criminal history check from the Indiana central repository for criminal history information under IC 10-13-3 or another source allowed by law.

(3) If applicable, the individual's state nurse aide registry report from the state department of health. This subdivision does not require an individual to be a nurse aide.

(4) Three (3) letters of reference.

(5) A registration fee. The division shall establish the amount of the registration fee.

(6) Proof that the individual is at least eighteen (18) years of age.

(7) Any other information required by the division.

(b) A registration is valid for two (2) years. A personal services attendant may renew the personal services attendant's registration by updating any information in the file that has changed and by paying the fee required under subsection (a)(5). The limited criminal history check and report required under subsection (a)(2) and (a)(3) must be updated every two (2) years.

(c) The division and any organization designated under section 11 of this chapter shall maintain a file for each personal services attendant that contains:

(1) comments related to the provision of attendant care services

submitted by an individual in need of self-directed in-home care who has employed the personal services attendant; and

(2) the items described in subsection (a)(1) through (a)(4).

(d) Upon request, the division shall provide to an individual in need of self-directed in-home care the following:

(1) Without charge, a list of personal services attendants who are registered with the division and available within the requested geographic area.

(2) A copy of the information of a specified personal services attendant who is on file with the division under subsection (c). The division may charge a fee for shipping, handling, and copying expenses.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-13
Physician's written opinion

Sec. 13. The case manager of an individual in need of self-directed in-home care shall maintain an attending physician's written opinion submitted under section 5 of this chapter in a case file that is maintained for the individual by the case manager.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-14
Employer; immunity; liability

Sec. 14. (a) A personal services attendant who is hired by the individual in need of self-directed in-home care is an employee of the individual in need of self-directed in-home care.

(b) The division is not liable for any actions of a personal services attendant or an individual in need of self-directed in-home care.

(c) A personal services attendant and an individual in need of self-directed in-home care are each liable for any negligent or wrongful act or omission in which the person personally participates.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-15
Responsibilities of individuals in need of self-directed in-home care

Sec. 15. (a) Except as provided in subsection (b), an individual in need of self-directed in-home care is responsible for recruiting, hiring, training, paying, certifying any employment related documents, dismissing, and supervising in the individual's home during service hours a personal services attendant who provides attendant care services for the individual.

(b) If an individual in need of self-directed in-home care is:

(1) less than twenty-one (21) years of age; or

(2) unable to direct in-home care because of a brain injury or mental deficiency;

the individual's parent, spouse, legal guardian, or a person possessing a valid power of attorney for the individual, may make employment, care, and training decisions and certify any employment related documents on behalf of the individual.

(c) An individual in need of self-directed in-home care or an individual under subsection (b) and the individual's case manager shall develop an authorized care plan. The authorized care plan must include a list of weekly services or tasks that must be performed to comply with the authorized care plan.
As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-16
Rules

Sec. 16. The division shall adopt rules under IC 4-22-2 concerning:

(1) the method of payment to a personal services attendant who provides authorized services under this chapter; and

(2) record keeping requirements for personal attendant services.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-17
Contracts

Sec. 17. The individual in need of self-directed in-home care and the personal services attendant must each sign a contract, in a form approved by the division, that includes, at a minimum, the following provisions:

(1) The responsibilities of the personal services attendant.

(2) The frequency the personal services attendant will provide attendant care services.

(3) The duration of the contract.

(4) The hourly wage of the personal services attendant. The wage may not be less than the federal minimum wage or more than the rate that the recipient is eligible to receive under a Medicaid home and community based services waiver or the community and home options to institutional care for the elderly and disabled program for attendant care services.

(5) Reasons and notice agreements for early termination of the contract.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-18
Amendment of home and community based services waiver program; payments not considered income

Sec. 18. (a) The office shall amend the home and community based services waiver program under the state Medicaid plan to provide for the payment for attendant care services provided by a personal services attendant for an individual in need of self-directed in-home care under this chapter, including any related record keeping and employment expenses.

(b) The office shall not, to the extent permitted by federal law, consider as income money paid under this chapter to or on behalf of an individual in need of self-directed in-home care to enable the individual to employ registered personal services attendants, for purposes of determining the individual's income eligibility for

services under this chapter.
As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-19
Demonstration projects; research

Sec. 19. The division may:

(1) initiate demonstration projects to test new ways of providing attendant care services; and

(2) research ways to best provide attendant care services in urban and rural areas.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-20
Rules

Sec. 20. (a) The division and office may adopt rules under IC 4-22-2 that are necessary to implement this chapter.

(b) The office shall apply for any federal waivers necessary to implement this chapter.

As added by P.L.141-2006, SEC.44.

IC 12-10-17.1-21
Rules

Sec. 21. The division shall adopt rules under IC 4-22-2 concerning the following:

(1) The receipt, review, and investigation of complaints concerning the:

(A) neglect;

(B) abuse;

(C) mistreatment; or

(D) misappropriation of property;

of an individual in need of self-directed in-home care by a personal services attendant.

(2) Establishing notice and administrative hearing procedures in accordance with IC 4-21.5.

(3) Appeal procedures, including judicial review of administrative hearings.

(4) Procedures to place a personal services attendant who has been determined to have been guilty of:

(A) neglect;

(B) abuse;

(C) mistreatment; or

(D) misappropriation of property;

of an individual in need of self-directed in-home care on the state nurse aide registry.

As added by P.L.141-2006, SEC.44.

IC 12-10-18

Chapter 18. Reports of Missing Endangered Adults

IC 12-10-18-0.5

Missing endangered adult as high risk missing person

Sec. 0.5. A missing endangered adult is a high risk missing person under IC 5-2-17. A law enforcement agency receiving a report of a missing adult shall follow the procedures in IC 5-2-17 in addition to the procedures described in this chapter.

As added by P.L.92-2007, SEC.2.

IC 12-10-18-1

Notification and investigative report

Sec. 1. (a) A law enforcement agency that receives a notification concerning a missing endangered adult from:

(1) the missing endangered adult's:

(A) guardian;

(B) custodian; or

(C) guardian ad litem; or

(2) an individual who:

(A) provides the missing endangered adult with home health aid services;

(B) possesses a health care power of attorney for the missing endangered adult; or

(C) has evidence that the missing endangered adult has a condition that may prevent the missing endangered adult from returning home without assistance;

shall prepare an investigative report on the missing endangered adult, if based on the notification, the law enforcement agency has reason to believe that an endangered adult is missing.

(b) The investigative report described in subsection (a) may include the following:

(1) Relevant information obtained from the notification concerning the missing endangered adult, including the following:

(A) A physical description of the missing endangered adult.

(B) The date, time, and place that the missing endangered adult was last seen.

(C) The missing endangered adult's address.

(2) Information gathered by a preliminary investigation, if one was made.

(3) A statement by the law enforcement officer in charge setting forth that officer's assessment of the case based upon the evidence and information received.

As added by P.L.140-2005, SEC.3.

IC 12-10-18-2

Investigative report prepared within five hours

Sec. 2. The law enforcement agency shall prepare the investigative report described by section 1 of this chapter as soon as practicable,

and if possible not later than five (5) hours after the law enforcement agency receives notification of a missing endangered adult.
As added by P.L.140-2005, SEC.3.

IC 12-10-18-3
Public notification

Sec. 3. (a) Upon completion of the report described by section 1 of this chapter, if the law enforcement agency has reason to believe that public notification may assist in locating the missing endangered adult, the law enforcement agency may immediately forward the contents of the report to:

(1) all law enforcement agencies that have jurisdiction in the location where the missing endangered adult lives and all law enforcement agencies that have jurisdiction in the location where the missing endangered adult was last seen;

(2) all law enforcement agencies to which the person who made the notification concerning the missing endangered adult requests the report be sent, if the law enforcement agency determines that the request is reasonable in light of the information received;

(3) all law enforcement agencies that request a copy of the report;

(4) one (1) or more broadcasters that broadcast in an area where the missing endangered adult may be located;

(5) the Indiana data and communication system (IDACS);

(6) the National Crime Information Center's Missing Person File, if appropriate; and

(7) the Indiana clearinghouse for information on children and missing endangered adults established by IC 10-13-5-5, to disseminate information concerning the missing endangered adult to be broadcast as part of the silver alert program.

(b) Upon completion of the report described by section 1 of this chapter, a law enforcement agency may forward a copy of the contents of the report to one (1) or more newspapers distributed in an area where the missing endangered adult may be located.

(c) After forwarding the contents of the report to a broadcaster or newspaper under this section, the law enforcement agency may request that the broadcaster or newspaper:

(1) notify the public that there is an endangered adult medical alert; and

(2) broadcast or publish:

(A) a description of the missing endangered adult; and

(B) any other relevant information that would assist in locating the missing endangered adult.

(d) A broadcaster or newspaper that receives a request concerning a missing endangered adult under subsection (c) may, at the discretion of the broadcaster or newspaper:

(1) notify the public that there is an endangered adult medical alert; and

(2) broadcast or publish:

(A) a description of the missing endangered adult; and
(B) any other relevant information that would assist in locating the missing endangered adult.

As added by P.L.140-2005, SEC.3. Amended by P.L.43-2009, SEC.12.

IC 12-10-18-4
Law enforcement agency investigation

Sec. 4. A law enforcement agency may begin an investigation concerning a missing endangered adult as soon as possible after receiving notification of the missing endangered adult.

As added by P.L.140-2005, SEC.3.

IC 12-10-18-5
Notification of law enforcement agency if missing endangered adult found

Sec. 5. An individual described in section 1(a)(1) or 1(a)(2) of this chapter who notifies a law enforcement agency concerning a missing endangered adult shall notify the law enforcement agency when the missing endangered adult is found.

As added by P.L.140-2005, SEC.3.

IC 12-10-18-6
Broadcaster and newspaper civil immunity

Sec. 6. (a) A broadcaster or newspaper that receives a report of a missing endangered adult from a law enforcement agency under section 3 of this chapter is immune from civil liability for an act or omission related to:

(1) the broadcast or publication of information contained in the report, including:
(A) a description of the missing endangered adult; and
(B) any other relevant information that would assist in locating the missing endangered adult; or
(2) the decision of the broadcaster or newspaper not to broadcast or publish information contained in the report.

(b) The civil immunity described in subsection (a) does not apply to an act or omission that constitutes gross negligence or willful, wanton, or intentional misconduct.

As added by P.L.140-2005, SEC.3.

IC 12-10.5

ARTICLE 10.5. RESPITE CARE SERVICES

IC 12-10.5-1

Chapter 1. Caretaker Support Program

IC 12-10.5-1-1

"Caretaker"

Sec. 1. As used in this chapter, "caretaker" means an individual who:

(1) provides ongoing care for an individual who:

(A) is at least eighteen (18) years of age; and

(B) has special needs; and

(2) does not receive money for the care provided under subdivision (1).

As added by P.L.274-2003, SEC.6.

IC 12-10.5-1-2

"Special needs"

Sec. 2. As used in this chapter, "special needs" means any of the following:

(1) Alzheimer's disease or any related disorder.

(2) Inability to perform at least two (2) activities of daily living.

(3) Any other condition that the division determines by rule should be covered by this article.

As added by P.L.274-2003, SEC.6.

IC 12-10.5-1-3

Establishment of program

Sec. 3. The caretaker support program is established.

As added by P.L.274-2003, SEC.6.

IC 12-10.5-1-4

Administration of program; adoption of rules

Sec. 4. (a) The division of aging established by IC 12-9.1-1-1 shall administer the caretaker support program established under this chapter.

(b) The division of aging shall do the following:

(1) Subject to section 9 of this chapter, adopt rules under IC 4-22-2 for the coordination and administration of the caretaker support program.

(2) Administer any money for the caretaker support program that is appropriated by the general assembly.

As added by P.L.274-2003, SEC.6. Amended by P.L.37-2005, SEC.1; P.L.141-2006, SEC.45.

IC 12-10.5-1-5

Eligibility for program

Sec. 5. An individual who is at least sixty-five (65) years of age and:

(1) a caretaker; or
(2) an individual with special needs being taken care of by a caretaker;

is eligible for the caretaker support program.
As added by P.L.274-2003, SEC.6.

IC 12-10.5-1-6
Included services

Sec. 6. Caretaker support program services include the following services administered by the area agencies on aging:

(1) Information for caretakers about available services.
(2) Assistance to caretakers in gaining access to the services.
(3) Individual counseling, organization of support groups, and caretaker training to assist caretakers in making decisions and solving problems in the individual's role as caretaker.
(4) Respite care to offer caretakers temporary relief from caretaker responsibilities.

As added by P.L.274-2003, SEC.6.

IC 12-10.5-1-7
Development of client cost share formula

Sec. 7. The division shall develop and implement a client cost share formula for respite care services.
As added by P.L.274-2003, SEC.6.

IC 12-10.5-1-8
Use of volunteers

Sec. 8. When possible, the division shall make use of volunteers and volunteer groups, including faith based groups, when executing its duties under this article.
As added by P.L.274-2003, SEC.6.

IC 12-10.5-1-9
Rule adoption; consultation with interested parties; requirements for rules; publication of comments received

Sec. 9. (a) Before finally adopting a rule under IC 4-22-2 to implement this chapter, the division shall consult with and fully consider any comments submitted by:

(1) caretakers providing care for a special needs individual under this chapter;
(2) individuals with special needs receiving care from a caretaker under this chapter;
(3) area agencies on aging;
(4) consumers and providers of home and community based services under IC 12-10-10 and IC 12-10-11.5; and
(5) any other agency, volunteer group, faith based group, or individual that the division considers appropriate;

to ensure that the rule complies with the requirements set forth in subsection (b).

(b) Rules adopted under this chapter must:

(1) include protections for the rights, safety, and welfare of individuals with special needs receiving care from a caretaker under this chapter, including reasonable monitoring and reporting requirements;

(2) serve distinct populations, including:

(A) the aged;

(B) persons with developmental disabilities; and

(C) persons with physical disabilities;

in a manner that recognizes, and appropriately responds to, the particular needs of the population;

(3) not create barriers to the availability of home and community based services under IC 12-10-10 and IC 12-10-11.5 by imposing costly or unduly burdensome requirements on caretakers or other service providers, including:

(A) requirements for proof of financial responsibility; and

(B) monitoring, enforcement, reporting, or other administrative requirements; and

(4) otherwise comply with IC 12-10-10, IC 12-10-11.5, and this chapter.

(c) Before submitting a rule adopted under this chapter to the attorney general for final approval under IC 4-22-2-31, the division shall submit to the publisher (as defined in IC 4-22-2-3(f)) for publication in the Indiana Register the division's written response under IC 4-22-2-23 to any comments received from the parties described in subsection (a). Submissions to the publisher shall be made in the electronic format specified by the publisher.

As added by P.L.37-2005, SEC.2. Amended by P.L.123-2006, SEC.26.

IC 12-10.5-2
Chapter 2. Continuum of Care

IC 12-10.5-2-1
Provision of standards of and promotion of best practices for program

Sec. 1. The division shall:
(1) provide standards for the training of; and
(2) promote best practices for;
continuum of care program providers.
As added by P.L.274-2003, SEC.6.

IC 12-10.5-2-2
Rules

Sec. 2. Subject to section 3 of this chapter, the division may adopt rules under IC 4-22-2 necessary to carry out this chapter.
As added by P.L.274-2003, SEC.6. Amended by P.L.37-2005, SEC.3.

IC 12-10.5-2-3
Rule adoption; consultation with interested parties; requirements for rules; publication of comments received

Sec. 3. (a) Before finally adopting a rule under IC 4-22-2 to implement this chapter, the division shall consult with and fully consider any comments submitted by:
(1) continuum of care providers providing care under this chapter;
(2) individuals receiving care under this chapter;
(3) area agencies on aging;
(4) consumers and providers of home and community based services under IC 12-10-10 and IC 12-10-11.5; and
(5) any other agency, volunteer group, faith based group, or individual that the division considers appropriate;
to ensure that the rule complies with the requirements set forth in subsection (b).

(b) Rules adopted under this chapter must:
(1) include protections for the rights, safety, and welfare of individuals receiving care under this chapter;
(2) serve distinct populations, including:
(A) the aged;
(B) persons with developmental disabilities; and
(C) persons with physical disabilities;
in a manner that recognizes, and appropriately responds to, the particular needs of the population;
(3) not create barriers to the availability of home and community based services under IC 12-10-10 and IC 12-10-11.5 by imposing costly or unduly burdensome requirements on continuum of care providers or other service providers, including:
(A) requirements for proof of financial responsibility; and
(B) monitoring, enforcement, reporting, or other

administrative requirements; and

(4) otherwise comply with IC 12-10-10, IC 12-10-11.5, and this chapter.

(c) Before submitting a rule adopted under this chapter to the attorney general for final approval under IC 4-22-2-31, the division shall submit to the publisher (as defined in IC 4-22-2-3(f)) for publication in the Indiana Register the division's written response under IC 4-22-2-23 to any comments received from the parties described in subsection (a). Submissions to the publisher shall be made in the electronic format specified by the publisher.

As added by P.L.37-2005, SEC.4. Amended by P.L.123-2006, SEC.27.

IC 12-10.5-2-4

Continuum of care

Sec. 4. The continuum of care provided under this article must include services that support prevention and treatment of mental illness and addiction.

As added by P.L.143-2011, SEC.13.

IC 12-11

ARTICLE 11. SERVICES FOR INDIVIDUALS WITH DISABILITIES

IC 12-11-1

Repealed

(Repealed by P.L.272-1999, SEC.66.)

IC 12-11-1.1

Chapter 1.1. Bureau of Developmental Disabilities Services; Community Based Services

IC 12-11-1.1-1

Establishment; services; approving entities and providers; supported living service arrangements; community based services; administration

Sec. 1. (a) The bureau of developmental disabilities services is established within the division.

(b) The bureau shall plan, coordinate, and administer the provision of individualized, integrated community based services for individuals with a developmental disability and their families, within the limits of available resources. The planning and delivery of services must be based on future plans of the individual with a developmental disability rather than on traditional determinations of eligibility for discrete services, with an emphasis on the preferences of the individual with a developmental disability and that individual's family.

(c) Services for individuals with a developmental disability must be services that meet the following conditions:

(1) Are provided under public supervision.

(2) Are designed to meet the developmental needs of individuals with a developmental disability.

(3) Meet all required state and federal standards.

(4) Are provided by qualified personnel.

(5) To the extent appropriate, are provided in home and community based settings in which individuals without disabilities participate.

(6) Are provided in conformity with a service plan developed under IC 12-11-2.1-2.

(d) The bureau shall approve entities to provide community based services and supports as follows:

(1) Beginning July 1, 2011, the bureau shall ensure that an entity approved to provide day services, identified day habilitation, including facility based or community based habilitation, prevocational services, or employment services under home and community based services waivers is accredited by an approved national accrediting body described in subsection (j).

(2) Beginning July 1, 2012, the bureau shall ensure that an entity approved to provide residential habilitation and support services under home and community based services waivers is accredited by an approved national accrediting body. However, if an entity is accredited to provide home and community based services under subdivision (1) other than residential habilitation and support services, the bureau may extend the time that the entity has to comply with this subdivision until the earlier of the following:

(A) The completion of the entity's next scheduled

accreditation survey.

(B) July 1, 2015.

(e) Subject to subsection (k), the bureau shall initially approve, reapprove, and monitor community based residential, habilitation, and employment service providers that provide alternatives to placement of individuals with a developmental disability in state institutions and health facilities licensed under IC 16-28 for individuals with a developmental disability. The services must simulate, to the extent feasible, patterns and conditions of everyday life that are as close as possible to normal. The community based service categories include the following:

(1) Supervised group living programs, which serve at least four (4) individuals and not more than eight (8) individuals, are funded by Medicaid, and are licensed by the community residential facilities council.

(2) Supported living service arrangements to meet the unique needs of individuals in integrated settings. Supported living service arrangements providing residential services may not serve more than four (4) unrelated individuals in any one (1) setting. However, a program that:

(A) is in existence on January 1, 2013, as a supervised group living program described in subdivision (1); and

(B) has more than four (4) individuals residing as part of the program;

may convert to a supported living service arrangement under this subdivision and continue to provide services to up to the same number of individuals in the supported living setting.

(f) To the extent that services described in subsection (e) are available and meet the individual's needs, an individual is entitled to receive services in the least restrictive environment possible.

(g) Community based services under subsection (e)(1) or (e)(2) must consider the needs of and provide choices and options for:

(1) individuals with a developmental disability; and

(2) families of individuals with a developmental disability.

(h) The bureau shall administer a system of service coordination to carry out this chapter.

(i) The bureau may issue orders under IC 4-21.5-3-6 against a provider that violates rules issued by the bureau for programs in which the provider is providing services in accordance with section 11 of this chapter.

(j) For purposes of subsections (d) and (k), "approved national accrediting body" means any of the following:

(1) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.

(2) The Council on Quality and Leadership In Supports for People with Disabilities, or its successor.

(3) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.

(4) The National Committee for Quality Assurance, or its successor.

(5) The ISO-9001 human services QA system.
(6) The Council on Accreditation, or its successor.
(7) An independent national accreditation organization approved by the secretary.

(k) An entity that is accredited by an approved national accrediting body is not subject to reapproval surveys or routine monitoring surveys by the division, bureau, or bureau of quality improvement services, including any reapproval survey under a home and community based services waiver. However, the bureau may perform validation surveys and complaint investigations of an entity accredited by an approved national accrediting body.

As added by P.L.272-1999, SEC.33. Amended by P.L.243-2003, SEC.11; P.L.99-2007, SEC.70; P.L.22-2010, SEC.1; P.L.153-2011, SEC.11; P.L.154-2012, SEC.1; P.L.130-2013, SEC.1.

IC 12-11-1.1-2
Medicaid funding; payment for services

Sec. 2. (a) Except as specified by the terms of the Medicaid program:

(1) an individual who receives services under this chapter; and
(2) the parents of the individual, if the individual is less than eighteen (18) years of age;

are liable for the cost of services and supports.

(b) The bureau shall make every effort to assure that individualized service plans developed for individuals with a developmental disability maximize the amount of Medicaid funding available to meet the needs of the individual.

(c) The bureau may provide reimbursement for services identified in an individual's individual service plan that are not eligible for Medicaid reimbursement and for which the individual does not have the resources to pay.

As added by P.L.272-1999, SEC.33. Amended by P.L.99-2007, SEC.71.

IC 12-11-1.1-3
Contracts to provide services

Sec. 3. The division may contract with:

(1) community mental retardation and other developmental disabilities centers;
(2) corporations; or
(3) individuals;

that are approved by the division to provide the services described in this chapter.

As added by P.L.272-1999, SEC.33.

IC 12-11-1.1-4
Continuing eligibility for Medicaid

Sec. 4. An individual with a developmental disability who is eligible for Medicaid remains eligible for Medicaid if transferred to community based services described in section 1(e) of this chapter.

As added by P.L.272-1999, SEC.33. Amended by P.L.99-2007, SEC.72.

IC 12-11-1.1-5
Continuing approved placement of individuals in certain facilities

Sec. 5. The bureau may continue the approved placement of an individual with a developmental disability in a child caring institution licensed under IC 31-27, a county home regulated by IC 12-30-3, or a health facility licensed under IC 16-28 if:

(1) the individual was placed in the institution, home, or facility before July 1, 1985; and

(2) the placement continues to be appropriate for the individual, as determined by the bureau.

As added by P.L.272-1999, SEC.33. Amended by P.L.145-2006, SEC.70; P.L.99-2007, SEC.73.

IC 12-11-1.1-6
Individuals with autism not excluded

Sec. 6. An individual who has been diagnosed to have autism may not be excluded from services for individuals with a developmental disability because the individual has autism.

As added by P.L.272-1999, SEC.33. Amended by P.L.99-2007, SEC.74.

IC 12-11-1.1-7
Community residential facilities operated by division

Sec. 7. Subject to the availability of money, the division may operate community residential facilities for individuals with a developmental disability who are hard to place, if private providers cannot be found to operate facilities for those individuals. Placement of individuals in these facilities is governed by IC 12-11-2.1.

As added by P.L.272-1999, SEC.33. Amended by P.L.99-2007, SEC.75.

IC 12-11-1.1-8
Repealed

(Repealed by P.L.188-2013, SEC.7.)

IC 12-11-1.1-9
Rules

Sec. 9. The director of the division may adopt rules under IC 4-22-2 to carry out this chapter.

As added by P.L.272-1999, SEC.33.

IC 12-11-1.1-10
Provider assessment

Sec. 10. (a) The office may assess providers of community based services to individuals with a developmental disability who otherwise qualify to receive ICF/MR (as defined in IC 16-29-4-2) based services in an amount not to exceed six percent (6%) of all service

revenue included on the annual plan of care excluding resident living allowances.

(b) The assessments shall be paid to the office not later than the tenth day of the month for each month that the individual is in service. The office or the office's designee may withhold Medicaid payments to a provider described in subsection (a) that fails to pay an assessment within thirty (30) days after the due date. The amount withheld may not exceed the amount of the assessments due.

(c) The community services quality assurance fund is created. The fund shall be administered by the office.

(d) Revenue from the assessments under this section shall be deposited into the fund. Money in the fund must be used for community services for persons with developmental disabilities.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) If federal financial participation to match the assessments in subsection (a) becomes unavailable under federal law, the authority to impose the assessments terminates on the date that the federal statutory, regulatory, or interpretive change takes effect.

As added by P.L.259-2003, SEC.1. Amended by P.L.246-2005, SEC.101.

IC 12-11-1.1-11

Issuance of citation for violations; requirements; remedies; considerations in determining remedy

Sec. 11. (a) Upon a determination by the bureau that a provider has violated this article or a rule adopted under this article, the director shall issue a citation under IC 4-21.5-3-6 to the provider. The citation must state the following:

(1) The nature of the violation.

(2) The classification of the violation.

(3) The corrective actions required of the provider to remedy the breach and to protect clients of the provider.

(4) Any penalty imposed on the provider.

(b) A person aggrieved by a citation issued under this section may request a review under IC 4-21.5-3-7. If a request for a hearing is not filed within the fifteen (15) day period, the determination contained in the citation is final.

(c) The bureau may impose the following remedies for a violation of this article or a rule adopted under this article:

(1) Issuance of an order for immediate correction of the violation.

(2) Imposition of a fine not to exceed ten thousand dollars ($10,000).

(3) Suspension of new clients by the provider for a period not to exceed ninety (90) days.

(4) Revocation of the provider's license or issuance of a probationary license.

(5) A requirement that the provider comply with any plan of correction approved or directed by the division.

(d) In determining appropriate remedies under this section for a violation, the bureau shall consider the following:

(1) Whether the violation occurred for reasons beyond the provider's control.

(2) Whether the provider has demonstrated that the provider has taken the appropriate steps to reasonably ensure that the violation will not recur.

(3) The history of violations by the provider.

(4) The effect of the violation on the client.

(5) The degree of the violation.

As added by P.L.153-2011, SEC.12.

IC 12-11-2
Repealed

(Repealed by P.L.272-1999, SEC.66.)

IC 12-11-2.1

Chapter 2.1. Service Coordination Services for Developmentally Disabled Individuals

IC 12-11-2.1-1

Diagnostic assessment

Sec. 1. (a) The bureau shall determine whether or not an individual has a developmental disability. For individuals for whom there is not enough current information available to make a determination of eligibility, the bureau shall use the results of a diagnostic assessment in determining whether an individual has a developmental disability. A diagnostic assessment must include the following:

(1) Diagnostic information concerning the individual's functioning level and medical and habilitation needs.

(2) All information necessary for the use of the office of Medicaid policy and planning, the Indiana health facilities, home health care, and hospice council, and the division.

(3) The use of all appropriate assessments conducted under rules adopted under IC 16-28.

(b) An individual who is found not to have a developmental disability may appeal the bureau's finding under IC 4-21.5.

(c) If an individual is determined to have a developmental disability, the office shall determine whether the individual meets the appropriate federal level of care requirements.

As added by P.L.272-1999, SEC.34. Amended by P.L.99-2007, SEC.76; P.L.197-2011, SEC.41.

IC 12-11-2.1-2

Service coordination services

Sec. 2. The bureau shall, within the limits of available resources, provide service coordination services to individuals with a developmental disability. Service coordination services must include the development of an individual service plan.

As added by P.L.272-1999, SEC.34. Amended by P.L.99-2007, SEC.77.

IC 12-11-2.1-3

Services provided through individual service plan

Sec. 3. All services provided to an individual must be provided under the individual service plan of the individual with a disability. To the extent that services described in IC 12-11-1.1-1(e) are available and meet the individual's needs, services provided to an individual shall be provided in the least restrictive environment possible.

As added by P.L.272-1999, SEC.34. Amended by P.L.14-2000, SEC.29; P.L.99-2007, SEC.78.

IC 12-11-2.1-4

Placement authority

Sec. 4. The bureau shall serve as the placement authority for

individuals with a developmental disability under service plans developed under this chapter, including all placements in an intermediate care facility.
As added by P.L.272-1999, SEC.34. Amended by P.L.99-2007, SEC.79; P.L.188-2013, SEC.8.

IC 12-11-2.1-5
Authorizing services for individual in community based setting

Sec. 5. When authorizing services for an individual with a developmental disability in a community based setting, the bureau shall give equal consideration based on need between:

(1) individuals who resided with a family member, relative, or guardian immediately before the community based residential placement; and
(2) individuals being placed from:
(A) an intermediate care facility; or
(B) a nursing facility.

As added by P.L.272-1999, SEC.34. Amended by P.L.99-2007, SEC.80; P.L.188-2013, SEC.9.

IC 12-11-2.1-6
Approval of placement in intermediate care facility

Sec. 6. The bureau may not approve the initial placement of a developmentally disabled individual in an intermediate care facility for the mentally retarded serving more than eight (8) individuals or a nursing facility unless:

(1) the individual has medical needs; and
(2) the placement is appropriate to the individual's needs.

If the placement is in a nursing facility, that placement must be appropriate to an individual's needs based upon preadmission screening conducted under IC 12-10-12.
As added by P.L.272-1999, SEC.34.

IC 12-11-2.1-7
Service plan for individual discharged or on outpatient status from state institution

Sec. 7. Before an individual with a developmental disability is:

(1) discharged from a state institution; or
(2) placed on outpatient status under IC 12-26-14 by a state institution;

the bureau shall develop a service plan for the individual under section 2 of this chapter.
As added by P.L.272-1999, SEC.34. Amended by P.L.99-2007, SEC.81.

IC 12-11-2.1-8
Repealed

(Repealed by P.L.188-2013, SEC.10.)

IC 12-11-2.1-9

Memorandum of understanding concerning referrals

Sec. 9. The division of mental health and addiction and the division shall enter into a memorandum of understanding concerning referrals to the bureau of developmentally disabled individuals discharged from or on an outpatient status from a state institution operated by the division of mental health and addiction.

As added by P.L.272-1999, SEC.34. Amended by P.L.215-2001, SEC.39.

IC 12-11-2.1-10

Personal and vocational counselors required

Sec. 10. The division shall require service coordination personnel and vocational counselors to coordinate their services.

As added by P.L.272-1999, SEC.34.

IC 12-11-2.1-11

Decertified individuals receiving services; resources

Sec. 11. (a) An individual who:

(1) is receiving services for individuals with a developmental disability that are funded by Medicaid; and

(2) has been decertified by the office because the individual fails to meet appropriate federal level of care requirements;

must continue to receive the same services, unless an appropriate individual service plan has been developed outlining the services needed by the individual to live in the least restrictive environment.

(b) After available federal, local, and individual resources have been used, unencumbered state appropriations that are available, as determined by the budget director, must be used to implement plans developed under subsection (a).

As added by P.L.272-1999, SEC.34. Amended by P.L.99-2007, SEC.83.

IC 12-11-2.1-12

Rules

Sec. 12. The director of the division may adopt rules under IC 4-22-2 to carry out this chapter.

As added by P.L.272-1999, SEC.34.

IC 12-11-3
Repealed

(Repealed by P.L.272-1999, SEC.66.)

IC 12-11-4
Repealed

(Repealed by P.L.272-1999, SEC.66.)

IC 12-11-5
Repealed

(Repealed by P.L.272-1999, SEC.66.)

IC 12-11-6

Chapter 6. Other Services for Individuals With Developmental Disabilities

IC 12-11-6-1

Planning, research, and development of other services; coordination of programs and services

Sec. 1. The division is responsible for the following:

(1) Planning, research, and the development of developmental services directed toward the prevention and alleviation of developmental disabilities or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability.

(2) The coordination of the various governmental services, activities, and programs in Indiana relating to individuals with a developmental disability.

(3) Administering the state aided services for individuals with a developmental disability.

As added by P.L.2-1992, SEC.5. Amended by P.L.1-1993, SEC.125; P.L.99-2007, SEC.84.

IC 12-11-6-2

Rules

Sec. 2. The director may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.2-1992, SEC.5.

IC 12-11-6-3

Repealed

(Repealed by P.L.272-1999, SEC.66.)

IC 12-11-7
Repealed

(Repealed by P.L.53-2014, SEC.99.)

IC 12-11-8

Chapter 8. Institute for Autism

IC 12-11-8-1

"Autism" defined

Sec. 1. As used in this chapter, "autism" means a neurological disorder that is described in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Washington, D.C., American Psychiatric Association, 1994, pages 70 and 71.

As added by P.L.2-1992, SEC.5. Amended by P.L.151-1995, SEC.5; P.L.107-1997, SEC.2.

IC 12-11-8-2

Autism resource center

Sec. 2. The Developmental Training Center at Indiana University in Bloomington shall operate an autism resource center to be known as the institute for autism.

As added by P.L.2-1992, SEC.5.

IC 12-11-8-3

Duties; statewide needs assessment; report of assessment results

Sec. 3. (a) The institute for autism in cooperation with the appropriate state agencies shall do the following:

(1) Provide informational services about autism.

(2) Provide an information system for services provided to individuals with autism and their families by federal, state, local, and private agencies.

(3) Develop a data base from information received by the division, the division of mental health and addiction, the department of education, and the state department of health relative to the services provided to individuals with autism and their families.

(4) Offer training and technical assistance to providers of services and families of individuals with autism.

(5) Research methods for assessing, planning, implementing, and evaluating programs for individuals with autism and their families.

(6) Develop model curricula and resource materials for providers of services and families of individuals with autism.

(7) Conduct one (1) time every three (3) years a statewide needs assessment study designed to determine the following:

(A) The status of services provided to individuals with autism and their families.

(B) The need for additional or alternative services for individuals with autism and their families.

(b) The institute for autism shall deliver to the general assembly in an electronic format under IC 5-14-6 the results of the needs assessment study required by subsection (a)(7) before December 1 of each year in which the study is conducted.

As added by P.L.2-1992, SEC.5. Amended by P.L.1-1993, SEC.128;

P.L.215-2001, SEC.42; P.L.28-2004, SEC.94; P.L.99-2007, SEC.85.

IC 12-11-10
Repealed

(Repealed by P.L.272-1999, SEC.66.)

IC 12-11-11.1
Repealed

(Repealed by P.L.272-1999, SEC.66.)

IC 12-11-12
Repealed

(Repealed by P.L.272-1999, SEC.66.)

IC 12-11-13

Chapter 13. Statewide Waiver Ombudsman

IC 12-11-13-1

Applicability

Sec. 1. This chapter applies only to an individual who:

(1) has a developmental disability; and

(2) receives services under a waiver under the federal home and community based services program.

As added by P.L.272-1999, SEC.35.

IC 12-11-13-2

"Ombudsman" defined

Sec. 2. As used in this chapter, "ombudsman" refers to the statewide waiver ombudsman established by section 3 of this chapter. The term includes individuals approved to act in the capacity of ombudsmen by the statewide waiver ombudsman.

As added by P.L.272-1999, SEC.35.

IC 12-11-13-3

Position established

Sec. 3. The statewide waiver ombudsman position is established within the division.

As added by P.L.272-1999, SEC.35.

IC 12-11-13-4

Appointment of acting ombudsman

Sec. 4. The director shall appoint an acting ombudsman within thirty (30) days of a vacancy in the position of the ombudsman. The acting ombudsman has the powers and duties of the ombudsman.

As added by P.L.272-1999, SEC.35.

IC 12-11-13-5

Consultation with experts regarding duties

Sec. 5. The ombudsman may consult with experts in fulfilling the duties of the ombudsman.

As added by P.L.272-1999, SEC.35.

IC 12-11-13-6

Investigation and resolution of complaints

Sec. 6. (a) The ombudsman shall receive, investigate, and attempt to resolve complaints and concerns that are made by or on behalf of an individual described in section 1 of this chapter.

(b) At the conclusion of an investigation of a complaint, the ombudsman shall report the ombudsman's findings to the complainant.

(c) If the ombudsman does not investigate a complaint, the ombudsman shall notify the complainant of the decision not to investigate and the reasons for the decision.

As added by P.L.272-1999, SEC.35.

IC 12-11-13-7
Access to records required

Sec. 7. (a) An ombudsman must be provided access to the following:

(1) An individual described in section 1 of this chapter.

(2) An entity that provides waiver services to an individual described in section 1 of this chapter.

(3) Records of an individual described in section 1 of this chapter, including records held by an entity that provides services to the individual.

(4) If an individual described in section 1 of this chapter is incapable of giving consent, as determined by the attending physician or as otherwise determined under state law, the name, address, and telephone number of the individual's legal representative.

Except as provided in subsections (c) and (d), the ombudsman must obtain consent under subsection (b) before having access to the records described in subdivision (3).

(b) Consent to have access to an individual's records shall be given in one (1) of the following forms:

(1) In writing by the individual.

(2) Orally by the individual in the presence of a witness.

(3) In writing by the legal representative of the individual if:

(A) the individual is incapable of giving consent, as determined by the attending physician or as otherwise determined under state law; and

(B) the legal representative has the authority to give consent.

(c) If consent to have access to an individual's records cannot be obtained under subsection (b), an ombudsman may inspect the records of the individual if the individual is incapable of giving consent, as determined by the attending physician or as otherwise determined under state law, and:

(1) has no legal representative;

(2) has a legal representative but the legal representative cannot be contacted within three (3) days; or

(3) has a legal representative but the legal representative does not have the authority to give consent to have access to the records.

(d) If an ombudsman has:

(1) been denied access to an individual's records by the individual's legal representative;

(2) reasonable cause to believe that the individual's legal representative is not acting in the best interests of the individual; and

(3) received written approval from the state ombudsman;

the ombudsman may inspect the records of the individual.

As added by P.L.272-1999, SEC.35.

IC 12-11-13-8
Immunity of provider of waiver services

Sec. 8. A provider of waiver services or an employee of a provider of waiver services is immune from:

(1) civil or criminal liability; and

(2) actions taken under a professional disciplinary procedure;

for the release or disclosure of records to the ombudsman under this chapter.

As added by P.L.272-1999, SEC.35.

IC 12-11-13-9

Agency providing access to relevant records

Sec. 9. A state or local government agency or entity that has records that are relevant to a complaint or an investigation conducted by the ombudsman shall provide the ombudsman with access to the records.

As added by P.L.272-1999, SEC.35.

IC 12-11-13-10

Ombudsman providing coordination and confidentiality

Sec. 10. The ombudsman shall do the following:

(1) Promote effective coordination among the following:

(A) Programs that provide legal services for individuals with a developmental disability.

(B) The division.

(C) Providers of waiver services to individuals with developmental disabilities.

(D) Providers of other necessary or appropriate services.

(2) Ensure that the identity of an individual described in section 1 of this chapter will not be disclosed without:

(A) the individual's written consent; or

(B) a court order.

As added by P.L.272-1999, SEC.35. Amended by P.L.99-2007, SEC.86.

IC 12-11-13-11

Rules

Sec. 11. The director of the division may adopt rules under IC 4-22-2 necessary to carry out this chapter.

As added by P.L.272-1999, SEC.35.

IC 12-11-13-12

Immunity from civil liability

Sec. 12. The ombudsman is not civilly liable for the good faith performance of official duties.

As added by P.L.272-1999, SEC.35.

IC 12-11-13-13

Annual report on operations of program

Sec. 13. (a) The ombudsman shall prepare a report each year on the operations of the program.

(b) A copy of the report required under subsection (a) shall be

provided to the following:

(1) The governor.

(2) The legislative council. The report must be in an electronic format under IC 5-14-6.

(3) The division.

(4) The interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.

As added by P.L.272-1999, SEC.35. Amended by P.L.28-2004, SEC.95; P.L.3-2009, SEC.5; P.L.53-2014, SEC.100.

IC 12-11-13-14

Duty to report to legislative committee

Sec. 14. The ombudsman shall report:

(1) annually; or

(2) upon request;

to the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.

As added by P.L.272-1999, SEC.35. Amended by P.L.3-2009, SEC.6; P.L.53-2014, SEC.101.

IC 12-11-13-15

Receipt of complaints

Sec. 15. The division shall:

(1) establish a statewide toll free telephone line continuously open to receive complaints regarding individuals described in section 1 of this chapter; and

(2) forward all complaints received from the toll free telephone line to the statewide waiver ombudsman.

As added by P.L.272-1999, SEC.35.

IC 12-11-13-16

Offenses regarding ombudsman

Sec. 16. A person who:

(1) intentionally prevents the work of the ombudsman;

(2) knowingly offers compensation to the ombudsman in an effort to affect the outcome of an investigation or a potential investigation; or

(3) knowingly or intentionally retaliates against a resident, a client, an employee, or another person who files a complaint or provides information to the ombudsman;

commits a Class B misdemeanor.

As added by P.L.272-1999, SEC.35.

IC 12-12

ARTICLE 12. REHABILITATION SERVICES

IC 12-12-1

Chapter 1. Rehabilitation Services Bureau

IC 12-12-1-1

Establishment

Sec. 1. The rehabilitation services bureau is established within the division.

As added by P.L.2-1992, SEC.6.

IC 12-12-1-2

Organization of bureau

Sec. 2. The director shall organize the bureau in the manner necessary to carry out the bureau's duties. However, the bureau must include the following:

(1) The unit of services for individuals who are blind and individuals who are visually impaired.

(2) The unit of vocational rehabilitation.

(3) The unit of services for individuals who are deaf and individuals who are hard of hearing.

As added by P.L.2-1992, SEC.6. Amended by P.L.99-2007, SEC.87.

IC 12-12-1-3

Mandatory duties of bureau

Sec. 3. The bureau shall do the following:

(1) Plan, establish, and operate programs, facilities, and services relating to vocational rehabilitation.

(2) Design all necessary state plans for rehabilitation services required for the receipt and disbursement of any money available to the state from the federal government.

(3) Direct the disbursement and administer the use of money from all sources for vocational rehabilitation programs.

As added by P.L.2-1992, SEC.6.

IC 12-12-1-4

Repealed

(Repealed by P.L.64-2002, SEC.8.)

IC 12-12-1-4.1

Additional duties of bureau

Sec. 4.1. (a) The bureau may do the following:

(1) Establish vocational rehabilitation centers separately or in conjunction with community rehabilitation centers.

(2) Contract with governmental units and other public or private organizations to provide any of the vocational rehabilitation services permitted or required by this article, IC 12-8-1.5-10, IC 12-9-6, and IC 12-11-6.

(3) Provide or contract for the provision of other services that

are consistent with the purposes of this article, IC 12-8-1.5-10, IC 12-9-6, and IC 12-11-6.

(b) When entering into contracts for job development, placement, or retention services, the bureau shall contract with governmental units and other public or private organizations or individuals that are accredited by one (1) of the following organizations:

(1) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.

(2) The Council on Quality and Leadership in Supports for People with Disabilities, or its successor.

(3) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.

(4) The National Commission on Quality Assurance, or its successor.

(5) An independent national accreditation organization approved by the secretary.

(c) To the extent that the accreditation requirements of an accrediting organization listed in subsection (b) do not cover a specific requirement determined by the bureau to be necessary for a contracted service under subsection (a), the bureau shall include these specific requirements as part of the bureau's contract for job development, placement, or retention services.

As added by P.L.64-2002, SEC.3. Amended by P.L.160-2012, SEC.29.

IC 12-12-1-5

Job placement of blind, visually impaired, and persons with disabilities; supported employment

Sec. 5. (a) The bureau shall provide job placement services, including supported employment (as defined in 34 CFR 363.6), on a consistent statewide basis for qualified blind, visually impaired, and other persons with disabilities.

(b) The bureau shall increase employment opportunities for persons with disabilities by encouraging and authorizing direct job placements into any job that is chosen by the vocational rehabilitation client, including a job provided by any organization that has a contract with the bureau to provide vocational rehabilitation services.

As added by P.L.2-1992, SEC.6. Amended by P.L.23-1993, SEC.48; P.L.104-1996, SEC.2.

IC 12-12-1-6

Bureau determination of whether applicant for state civil service is an individual with a disability

Sec. 6. The bureau shall, upon request of an applicant for state civil service (as defined in IC 4-15-2.2-10), determine whether the applicant is an individual with a disability who is eligible to be appointed under IC 4-15-2.2-33.

As added by P.L.2-1992, SEC.6. Amended by P.L.6-2012, SEC.90.

IC 12-12-1-7

Research and demonstration projects

Sec. 7. The bureau may conduct research and demonstration projects, including inquiries into the causes of blindness and other disabilities and their prevention.

As added by P.L.2-1992, SEC.6.

IC 12-12-1-8

Receipt of property; conveyance and use of gifts and bequests

Sec. 8. (a) The bureau may receive property from any source if the director determines that receipt of the property is consistent with this article.

(b) The bureau may, subject to the terms of the gift or bequest, sell, convey, or authorize the use of the gift or bequest.

As added by P.L.2-1992, SEC.6.

IC 12-12-1-9

Rehabilitation services fund

Sec. 9. (a) The rehabilitation services fund is established.

(b) The fund consists of gifts and bequests, and the proceeds of the sale of gifts and bequests, received by the bureau.

(c) The balance remaining in the fund at the end of a state fiscal year remains in the fund and does not revert to the state general fund.

(d) The interest earned from investment of money in the fund shall be credited to the fund.

(e) The fund shall be used to defray the expenses of rehabilitation or other services in cases for which money is not available from other sources.

As added by P.L.2-1992, SEC.6.

IC 12-12-1-10

State and federal higher education awards; direct payment to approved institution; award not considered income

Sec. 10. If an individual receives a state or federal higher education award that is paid directly to an approved postsecondary educational institution for the individual's benefit:

(1) the individual is not required to report the award as income or as a resource of the individual when applying for services, facilities, programs, or other assistance from the bureau; and

(2) the award may not be considered as income or a resource of the individual in determining initial or continuing eligibility for services, facilities, programs, or other assistance from the bureau.

As added by P.L.2-1992, SEC.6. Amended by P.L.2-2007, SEC.155.

IC 12-12-2

Chapter 2. Commission on Rehabilitation Services

IC 12-12-2-1

"Commission" defined

Sec. 1. As used in this chapter, "commission" refers to the commission on rehabilitation services established by section 2 of this chapter.

As added by P.L.2-1992, SEC.6.

IC 12-12-2-2

Establishment

Sec. 2. The commission on rehabilitation services is established.

As added by P.L.2-1992, SEC.6.

IC 12-12-2-3

Membership

Sec. 3. (a) The commission consists of at least fourteen (14) members appointed by the governor as follows:

(1) Three (3) members representing advocacy groups for:

(A) individuals with:

(i) physical;

(ii) cognitive;

(iii) sensory; and

(iv) mental;

disabilities; or

(B) parents, guardians, or advocates of individuals with disabilities who have difficulty or who are unable to represent themselves.

(2) At least one (1) member representing current or former applicants for vocational rehabilitation services or recipients of vocational rehabilitation services.

(3) At least one (1) representative of the statewide Independent Living Council.

(4) At least one (1) representative of a parent training and information center established by the individuals with disabilities education act.

(5) At least one (1) representative of the Indiana protection and advocacy services agency.

(6) At least one (1) representative of community rehabilitation program service providers.

(7) Four (4) representatives of business, industry, and labor.

(8) The director of the division of disability and rehabilitative services shall serve as an ex officio member.

(9) A vocational rehabilitation counselor shall serve as an ex officio nonvoting member.

(b) Not more than seven (7) members of the commission may be from the same political party.

(c) At least fifty-one percent (51%) of the commission must be persons with disabilities who are not employees of the division of

disability and rehabilitative services.
As added by P.L.2-1992, SEC.6. Amended by P.L.4-1993, SEC.42; P.L.5-1993, SEC.55; P.L.141-2006, SEC.46.

IC 12-12-2-4
Members; terms of office

Sec. 4. (a) A member of the commission serves a term of three (3) years.

(b) A member may not serve more than two (2) consecutive terms.
As added by P.L.2-1992, SEC.6. Amended by P.L.4-1993, SEC.43; P.L.5-1993, SEC.56.

IC 12-12-2-5
Members; vacancies

Sec. 5. The governor shall fill a vacancy on the commission by appointing an individual for the unexpired term.
As added by P.L.2-1992, SEC.6.

IC 12-12-2-6
Election of officers

Sec. 6. The commission shall elect the necessary officers from the commission's membership.
As added by P.L.2-1992, SEC.6.

IC 12-12-2-7
Powers and duties

Sec. 7. The commission shall do the following:

(1) Advise the division concerning the division's performance in the following areas:

(A) Eligibility and order of selection.

(B) Scope, extent, and effectiveness of services.

(C) Functions of state agencies in addition to vocational rehabilitation affecting individuals in achieving rehabilitation goals.

(2) Advise the secretary of family and social services and the division of disability and rehabilitative services concerning the state plan, applications, and the strategic plan.

(3) Review and analyze the effectiveness and consumer satisfaction with the functions of the agencies dealing with persons with disabilities and with vocational rehabilitation services.

(4) Prepare and submit an annual report to the governor and the rehabilitation services administration commissioner on the status of vocational rehabilitation programs in Indiana.

(5) Coordinate with other councils in Indiana.

(6) Advise and provide for coordination and working relationships between the state agency and the Independent Living Council and Independent Living centers.

As added by P.L.2-1992, SEC.6. Amended by P.L.4-1993, SEC.44; P.L.5-1993, SEC.57; P.L.141-2006, SEC.47.

IC 12-12-2-8
Meetings

Sec. 8. (a) The commission shall meet at least four (4) times a year upon the call of the commission's presiding officer.

(b) The meetings of the commission must comply with IC 5-14-1.5.

As added by P.L.2-1992, SEC.6. Amended by P.L.4-1993, SEC.45; P.L.5-1993, SEC.58.

IC 12-12-2-9
Members; per diem; travel expenses

Sec. 9. A member of the commission is entitled to the following:

(1) The minimum salary per diem as provided in IC 4-10-11-2.1(b) for each day spent on the official business of the commission.

(2) Reimbursement for travel and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.2-1992, SEC.6.

IC 12-12-2-10
Advisory committees; per diem and expenses of committee members

Sec. 10. (a) The commission may appoint advisory committees necessary to advise the director and the bureau.

(b) A member of an advisory committee appointed under this section is entitled to the following:

(1) The minimum salary per diem as provided in IC 4-10-11-2.1(b) for each day spent on the official business of the advisory committee.

(2) Reimbursement for traveling and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.2-1992, SEC.6.

IC 12-12-2-11
Staff and personnel

Sec. 11. The commission, in conjunction with the division of disability and rehabilitative services, may employ staff and other personnel as necessary.

As added by P.L.4-1993, SEC.46 and P.L.5-1993, SEC.59. Amended by P.L.141-2006, SEC.48.

IC 12-12-3

Chapter 3. Rehabilitation Center

IC 12-12-3-1

Establishing or contracting for establishment of center

Sec. 1. The bureau shall:

(1) establish, equip, and operate; or

(2) contract to establish, equip, and operate;

a rehabilitation center to assure that comprehensive rehabilitation services are available to blind and visually impaired individuals.

As added by P.L.2-1992, SEC.6.

IC 12-12-3-2

Services and programs provided

Sec. 2. The rehabilitation center may provide services and programs, including the following:

(1) Communication skills training.

(2) Orientation and mobility services.

(3) Activities of daily living services.

(4) Vocational evaluation services.

(5) Vocational adjustment services.

(6) Vocational skills training.

(7) Manufacture of products.

(8) Subcontract work.

(9) Homebound services.

(10) Counseling.

(11) Low vision services.

(12) Placement services.

(13) Residential services.

As added by P.L.2-1992, SEC.6.

IC 12-12-3-3

Vocational skills training for blind and visually impaired; sheltered work placement

Sec. 3. The rehabilitation center may provide vocational skills training programs to provide blind and visually impaired individuals with training in the skills necessary for placement in competitive employment in the community. Sheltered work may be provided for those who are not capable, temporarily or permanently, of competitive placement.

As added by P.L.2-1992, SEC.6.

IC 12-12-4
Repealed

(Repealed by P.L.49-1997, SEC.86.)

IC 12-12-5

Chapter 5. Blind Vending Services

IC 12-12-5-1

Vending opportunities within exclusive right of bureau; purpose

Sec. 1. Except as provided in section 3 of this chapter, the bureau is given sole vending opportunities in buildings owned, leased in whole, or operated by:

(1) the state;
(2) a county;
(3) a township;
(4) a city; or
(5) a town;

for purposes of providing blind individuals with remunerative employment and enlarging the economic opportunities of the blind.
As added by P.L.2-1992, SEC.6.

IC 12-12-5-2

Articles to be sold; location and type of vending facility

Sec. 2. (a) Vending facilities shall be established for the purpose of selling newspapers, periodicals, confections, tobacco products, food, beverages, and other articles approved for sale by the bureau and the custodial authority of the building.

(b) The location and type of vending facility shall be determined by the bureau in cooperation with the custodial authority of the building in which the vending facility will be operated.
As added by P.L.2-1992, SEC.6.

IC 12-12-5-3

Relinquishment of exclusive right; conditions

Sec. 3. The bureau shall relinquish the bureau's exclusive right under section 1 of this chapter to operate vending services in a building if either of the following apply:

(1) A blind vendor is not available to provide vending services in a particular building.
(2) The custodial authority of the building shows to the satisfaction of the bureau that good cause exists for not granting the bureau the exclusive right to operate vending services in the building and the custodial authority files with the bureau a signed affidavit to that effect.

As added by P.L.2-1992, SEC.6.

IC 12-12-5-4

Vending services contracts entered into following relinquishment by bureau of exclusive right

Sec. 4. If the bureau relinquishes the bureau's exclusive right to operate vending services under section 3 of this chapter, the custodial authority of the building may enter into a contract with a person for the provision of vending services in the building. A contract entered into under this section may not exceed two (2) years.

As added by P.L.2-1992, SEC.6.

IC 12-12-5-5
Vending services contracts entered into following relinquishment of exclusive right; notice to bureau

Sec. 5. The custodial authority of a building shall notify the bureau before entering into or renewing a contract to operate vending services in the building with a person other than the bureau.
As added by P.L.2-1992, SEC.6.

IC 12-12-5-6
Placement at new vending facility; operator already operating another facility

Sec. 6. In placing blind vendors at vending facilities under this section, the bureau may not place at a new vending facility a blind vendor who is already operating a vending facility unless the placement of the vendor at the new vending facility would leave a vacant vending facility that could be:

(1) immediately filled by another blind vendor;
(2) transferred to the custodial authority under section 3 of this chapter; or
(3) closed due to insufficient income producing potential.

As added by P.L.2-1992, SEC.6.

IC 12-12-5-7
Duty of bureau to seek out vending opportunities

Sec. 7. The bureau shall seek out vending opportunities for blind individuals in public and private buildings.
As added by P.L.2-1992, SEC.6.

IC 12-12-5-8
Issuance of licenses; vending facilities in privately owned buildings and buildings owned or leased by the federal government

Sec. 8. The division may do the following:

(1) Issue licenses to blind individuals to operate vending stands under applicable federal and state laws.
(2) Establish and operate vending facilities for the placement of blind individuals in buildings owned or leased by the federal government.
(3) Establish and operate vending facilities in privately owned buildings.

As added by P.L.2-1992, SEC.6.

IC 12-12-5-9
Training of vending facility operators; use of state, local, and federal money

Sec. 9. Training of vending facility operators under this chapter may be paid from state, local, or federal money.
As added by P.L.2-1992, SEC.6.

IC 12-12-5-10
Annual report

Sec. 10. (a) Before December 1 of each year, the bureau shall submit to the legislative services agency a report in an electronic format under IC 5-14-6 detailing the number of blind vendors placed by the bureau in public and private buildings under this chapter.

(b) The legislative services agency shall submit copies of the report to the chairs of the health committees of the senate and the house of representatives.

As added by P.L.2-1992, SEC.6. Amended by P.L.28-2004, SEC.96.

IC 12-12-6

Chapter 6. Rehabilitation Engineering

IC 12-12-6-1

"Rehabilitation technology" defined

Sec. 1. As used in this chapter, "rehabilitation technology" means the provision of physical devices or the adaptation of the physical environment to enable persons with physical disabilities to perform everyday activities in a workplace, in an educational setting, or in a home or other place of residence.

As added by P.L.2-1992, SEC.6. Amended by P.L.23-1993, SEC.49; P.L.4-1993, SEC.47; P.L.5-1993, SEC.60.

IC 12-12-6-2

Establishment of program; purposes

Sec. 2. The bureau shall establish a rehabilitation technology program for persons with physical disabilities. The purpose of the program is to do the following:

(1) Provide rehabilitation technology services directly to persons with physical disabilities.

(2) Provide training for providers of rehabilitation services to enable providers to program more effectively for persons with physical disabilities.

(3) Provide training opportunities for individuals desiring to enter the rehabilitation technology field.

(4) Develop a rehabilitation technology model.

(5) Provide a resource for the business and industrial community to increase the productivity of the current or future labor force through rehabilitation technology techniques.

(6) Meet the rehabilitation technology needs of persons with physical disabilities desiring prevocational and vocational training through coordination of services with state agencies that provide training and employment services.

(7) Provide assistance to employers and developers in making all buildings accessible to persons with physical disabilities by modifying building designs.

As added by P.L.2-1992, SEC.6. Amended by P.L.23-1993, SEC.50; P.L.4-1993, SEC.48; P.L.5-1993, SEC.61.

IC 12-12-6-3

Program contents

Sec. 3. The rehabilitation technology program may include the following:

(1) The provision of comprehensive technical services to persons with physical disabilities, counselors, workshop staff, educators, and potential employers to facilitate successful rehabilitation of individuals with a disability.

(2) The collection and dissemination of information about physical devices and data detailing the effectiveness of physical devices in enhancing the functional ability of persons with

physical disabilities.

(3) The establishment of a mechanism for training persons to more appropriately meet the rehabilitation technology needs of persons with physical disabilities.

As added by P.L.2-1992, SEC.6. Amended by P.L.23-1993, SEC.51; P.L.4-1993, SEC.49; P.L.5-1993, SEC.62; P.L.99-2007, SEC.88.

IC 12-12-6-4

Contracts for establishment of program

Sec. 4. The bureau may contract with outside agencies to establish the rehabilitation technology program.

As added by P.L.2-1992, SEC.6. Amended by P.L.4-1993, SEC.50; P.L.5-1993, SEC.63.

IC 12-12-7

Chapter 7. Services for Deaf and Hard of Hearing

IC 12-12-7-1

Unit defined

Sec. 1. As used in this chapter, "unit" refers to the unit of services for the deaf and hard of hearing established by IC 12-12-1-2.

As added by P.L.2-1992, SEC.6.

IC 12-12-7-2

Services to be provided by unit

Sec. 2. The unit shall do the following:

(1) Refer individuals who are deaf and individuals who are hard of hearing to the appropriate agencies to serve the individuals' needs.

(2) Coordinate state, local, and private efforts to serve individuals who are deaf and individuals who are hard of hearing.

As added by P.L.2-1992, SEC.6. Amended by P.L.99-2007, SEC.89.

IC 12-12-7-3

Telecommunications device for the deaf; development and implementation

Sec. 3. The unit may develop and implement a telecommunications device for the deaf (TDD) telephone relay service that operates twenty-four (24) hours a day.

As added by P.L.2-1992, SEC.6.

IC 12-12-7-4

Contracts for the provision of services

Sec. 4. The division may contract for the services required by this chapter.

As added by P.L.2-1992, SEC.6.

IC 12-12-7-5

Board of interpreter standards

Sec. 5. (a) As used in this section, "board" refers to the board of interpreter standards.

(b) The unit shall establish a board of interpreter standards.

(c) The unit and the board shall adopt rules under IC 4-22-2 creating standards (including ethical standards and grievance procedures) for interpreters and an enforcement mechanism for the interpreter standards.

(d) Funding for the board must come solely from the unit's existing budget.

As added by P.L.104-1996, SEC.3. Amended by P.L.272-1999, SEC.36.

IC 12-12-8

Chapter 8. Centers for Independent Living

IC 12-12-8-1

"Center for independent living" defined

Sec. 1. As used in this chapter, "center for independent living" means a consumer controlled, community based, cross-disability, nonresidential private nonprofit agency that:

(1) is designed and operated within a local community by individuals with disabilities; and

(2) provides an array of independent living services.

As added by P.L.272-1999, SEC.37.

IC 12-12-8-1.5

"Commissioner" defined

Sec. 1.5. As used in this chapter, "commissioner" means the commissioner of the Rehabilitation Services Administration in the United States Department of Education.

As added by P.L.217-2005, SEC.5.

IC 12-12-8-2

"Consumer control" defined

Sec. 2. As used in this chapter, "consumer control" means, with respect to a center for independent living or an eligible agency:

(1) that the center or eligible agency vests power and authority in individuals with disabilities, including individuals who are or have been recipients of independent living services; and

(2) that:

(A) at least fifty-one percent (51%) of the members of the center's board have significant disabilities; and

(B) a majority of the center's staff and employees in decision making positions are individuals with disabilities.

As added by P.L.272-1999, SEC.37. Amended by P.L.217-2005, SEC.6; P.L.141-2006, SEC.49.

IC 12-12-8-2.5

"Council" defined

Sec. 2.5. As used in this chapter, "council" means the statewide independent living council established by section 6 of this chapter.

As added by P.L.217-2005, SEC.7.

IC 12-12-8-3

"Cross-disability" defined

Sec. 3. As used in this chapter, "cross-disability" means, with respect to a center for independent living, that a center provides independent living services to individuals representing a range of significant disabilities and does not require the presence of one (1) or more specific significant disabilities before determining that an individual is eligible for independent living services.

As added by P.L.272-1999, SEC.37.

IC 12-12-8-3.2
"Federal act" defined

Sec. 3.2. As used in this chapter, "federal act" refers to the Federal Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and amendments to that statute.

As added by P.L.217-2005, SEC.8.

IC 12-12-8-3.4
"Individual with a disability" defined

Sec. 3.4. As used in this chapter, "individual with a disability" means an individual who:

(1) has a physical or mental impairment that substantially limits a major life activity;

(2) has a record of an impairment described in subdivision (1); or

(3) is regarded as having an impairment described in subdivision (1).

As added by P.L.217-2005, SEC.9.

IC 12-12-8-3.6
"Individual with a significant disability" defined

Sec. 3.6. As used in this chapter, "individual with a significant disability" means an individual who has a significant physical or mental impairment that substantially limits the individual's ability to:

(1) function independently in the family or community; or

(2) obtain, maintain, or advance in employment.

As added by P.L.217-2005, SEC.10.

IC 12-12-8-3.8
"State plan" defined

Sec. 3.8. As used in this chapter, "state plan" means the materials jointly developed and submitted by the council and the division to the commissioner containing the state's proposals for the following:

(1) The proposal for providing independent living services with federal funds under Title VII, Part B of the federal act.

(2) The development and support of a statewide network of centers for independent living.

(3) Working relationships among:

(A) programs providing independent living services and independent living centers; and

(B) the vocational rehabilitation program administered by the division under the federal act and other programs providing services for individuals with disabilities.

As added by P.L.217-2005, SEC.11. Amended by P.L.141-2006, SEC.50.

IC 12-12-8-4
Provisions void that violate federal law; eligibility for funding

Sec. 4. (a) Any provision of this chapter that violates a federal law or federal regulation is void.

(b) To be eligible to receive state funds, a center for independent living must meet the requirements for federal funding for a center for independent living under:

(1) 29 U.S.C. 796; and

(2) 34 CFR Parts 364 through 366;

that are in effect January 1, 1995.

As added by P.L.272-1999, SEC.37. Amended by P.L.217-2005, SEC.12.

IC 12-12-8-5

Designation of division as responsible state unit

Sec. 5. The division is designated as the state unit under Title VII of the federal act and has the following responsibilities:

(1) To receive, account for, and disburse funds received by the state under the federal act based on the state plan.

(2) To provide administrative assistance to support independent living programs and the activities of centers under Title VII, Part B of the federal act.

(3) To keep records and take actions with respect to the records as required by the commissioner.

(4) To submit additional information or provide assurances with respect to the independent living programs as required by the commissioner.

As added by P.L.217-2005, SEC.13. Amended by P.L.141-2006, SEC.51.

IC 12-12-8-6

Establishment of statewide independent living council; membership; requirements

Sec. 6. (a) There is established a statewide independent living council. The council is not a part of a state agency.

(b) The council consists of at least eleven (11) members appointed by the governor, including the following:

(1) At least one (1) director of a center for independent living located in Indiana chosen by the directors of the centers for independent living located in Indiana.

(2) Nonvoting members from state agencies that provide services for individuals with disabilities.

(3) Other members, who may include the following:

(A) Representatives of centers for independent living.

(B) Parents and guardians of individuals with disabilities.

(C) Advocates for individuals with disabilities.

(D) Representatives from private business.

(E) Representatives of organizations that provide services for individuals with disabilities.

(F) Other appropriate individuals.

(c) The members appointed under subsection (b) must:

(1) provide statewide representation;

(2) represent a broad range of individuals with disabilities from diverse backgrounds;

(3) be knowledgeable about centers for independent living and independent living services; and
(4) include a majority of members who:
(A) are individuals with disabilities; and
(B) are not employed by a state agency or a center for independent living.

As added by P.L.217-2005, SEC.14. Amended by P.L.1-2006, SEC.185; P.L.141-2006, SEC.52; P.L.182-2009(ss), SEC.298; P.L.153-2011, SEC.13.

IC 12-12-8-7
Salary per diem

Sec. 7. (a) Each member of the council who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state polices and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the council who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.217-2005, SEC.15.

IC 12-12-8-8
Terms of council members; limitation

Sec. 8. (a) A member appointed to the council by the governor serves a term of three (3) years, beginning on July 1 after appointment. However, a member appointed to fill a vacancy on the council serves for the remainder of the unexpired term.

(b) A member appointed to the council by the governor may not serve more than two (2) consecutive terms.

As added by P.L.217-2005, SEC.16.

IC 12-12-8-9
Appointment to fill vacancy on council

Sec. 9. If a vacancy occurs among the voting members of the council, the original appointing authority shall appoint a qualified individual to serve for the unexpired term of the vacating member.

As added by P.L.217-2005, SEC.17.

IC 12-12-8-10
Powers and duties of council; public access to meetings

Sec. 10. (a) The council has the powers and duties specified in this chapter.

(b) The council may do the following:
(1) Jointly develop and sign the state plan in conjunction with

the designated state unit.

(2) Monitor, review, and evaluate the implementation of the state plan.

(3) Coordinate activities with the state rehabilitation council and other councils that address the needs of specific disability issues.

(4) Submit periodic reports to the funding sources and provide access to the records that are necessary to verify contents of the reports.

(5) Do other things necessary and proper to implement this chapter.

(c) The council shall ensure that all meetings of the council are open to the public and in accessible formats with sufficient advance public notice.

As added by P.L.217-2005, SEC.18.

IC 12-12-8-11

Preparation and submission of state plan

Sec. 11. The division shall prepare the state plan that must be submitted to the commissioner.

As added by P.L.217-2005, SEC.19.

IC 12-12-8-12

Awarding of grants to eligible centers

Sec. 12. The division may award grants to any eligible center for independent living with funds that the division receives under Title VII, Part B of the federal act.

As added by P.L.217-2005, SEC.20.

IC 12-12-8-13

Appointment of peer review committee

Sec. 13. The council and the division shall jointly appoint a peer review committee to make recommendations for grants to new organizations eligible to be centers for independent living.

As added by P.L.217-2005, SEC.21.

IC 12-12-8-14

Eligibility of centers to receive funds

Sec. 14. A center for independent living is eligible to receive money under this chapter as long as the center complies with the standards and assurances required under Section 725 of the federal act. A center that receives only state or federal funds under Title VII, Part B of the federal act is subject to review by the division. A center that receives federal funds under Title VII, Part C of the federal act is subject to review by the federal government. A finding of noncompliance must be supported by a written report from the peer review committee appointed under section 13 of this chapter.

As added by P.L.217-2005, SEC.22.

IC 12-12-8-15

Compliance with state plan and federal law

Sec. 15. A center for independent living that receives money under this chapter shall comply with the standards and assurances required under the state plan and Section 725 of the federal act. The center for independent living shall provide the required assurances to the division.

As added by P.L.217-2005, SEC.23.

IC 12-12-8-16

Conditions for division to award grant for new center; criteria for ranking eligible agencies

Sec. 16. (a) If:

(1) there is no center for independent living serving a region of Indiana or a region of Indiana is underserved; and

(2) the state receives an increase in its federal allotment that is sufficient to support an additional center for independent living in Indiana;

the division may award a grant to an eligible agency for a new center for independent living in the unserved or underserved region. A grant awarded under this section must be consistent with the provisions of the state plan establishing a statewide network of centers for independent living.

(b) The council shall rank eligible agencies applying for a grant under this section using the standards and assurances required under Section 725 of the federal act. The council shall consider the ability of the applicant to operate a center for independent living and shall select an applicant using the following criteria:

(1) Evidence of the need for a center for independent living in the applicant's region of Indiana that is consistent with the state plan.

(2) The past performance of the applicant in providing services comparable to independent living services.

(3) The applicant's plan for complying with, or demonstrated compliance with, the standards and assurances set forth in Section 725 of the federal act.

(4) The quality of the applicant's key personnel and the involvement of individuals with significant disabilities.

As added by P.L.217-2005, SEC.24.

IC 12-12-8-17

Division review of centers

Sec. 17. (a) The division shall periodically review each new center for independent living that receives:

(1) money under Title VII, Part B of the federal act; or

(2) a grant under this chapter;

to determine whether the center is in compliance with the standards and assurances set forth in Section 725 of the federal act.

(b) If the division determines that a center reviewed under subsection (a) is not in compliance with the standards and assurances set forth in Section 725 of the federal act, the division shall

immediately notify the center of the division's determination of noncompliance. A center may appeal the determination by requesting a hearing from the office of the secretary not later than thirty (30) days after receiving notice from the division.

(c) Except as provided in subsection (d), the division shall terminate all funds to a center determined to be in noncompliance under this section not later than ninety (90) days after the date of:

(1) the division's notification of noncompliance; or

(2) a final decision by the office of the secretary in the case of a center that appeals the division's determination under subsection (b).

(d) The division may not terminate the funds of a center for independent living that is determined to be noncompliant with the standards and assurances set forth in Section 725 of the federal act if:

(1) the center submits to the division a plan for achieving compliance within ninety (90) days; and

(2) the division approves the plan.

A plan required under this subsection must be submitted not later than thirty (30) days after the center receives a notice of noncompliance from the division under subsection (b).

As added by P.L.217-2005, SEC.25.

IC 12-12-9

Chapter 9. Reporting of Blind or Visually Impaired Persons

IC 12-12-9-1

Reporting of blind or visually impaired persons by physicians or optometrists

Sec. 1. Each:

(1) physician holding an unlimited license to practice medicine; or

(2) optometrist licensed under IC 25-24-1;

shall report in writing, on forms prescribed by the office of the secretary, not more than ten (10) days after diagnosis, to the office of the secretary, the name, age, and address of each person diagnosed by the physician or optometrist as being blind (as defined under 42 U.S.C. 416(i)) or having visual impairment of a degree to interfere with the person's functioning in school, employment, or other activities of daily living.

As added by P.L.104-2003, SEC.1.

IC 12-12-9-2

Report distribution

Sec. 2. The office of the secretary shall, on the first business day of each month, send a copy of a report filed under section 1 of this chapter to the following persons:

(1) For persons less than seventeen (17) years of age, to the following:

(A) The Indiana School for the Blind and Visually Impaired.

(B) The division of disability and rehabilitative services.

(C) The division of special education of the department of education.

(2) For persons at least seventeen (17) years of age, to the following:

(A) The division of disability and rehabilitative services.

(B) On request, organizations serving the blind or visually impaired and the state department of health.

As added by P.L.104-2003, SEC.1. Amended by P.L.218-2005, SEC.5; P.L.141-2006, SEC.53.

IC 12-12-9-3

Report confidentiality

Sec. 3. All reports filed under this chapter shall be kept confidential and used solely to determine the eligibility of the individuals for assistance or rehabilitation.

As added by P.L.104-2003, SEC.1.

IC 12-12-9-4

Information provided to individuals designated in reports

Sec. 4. (a) On receiving a report under this chapter, the division of disability and rehabilitative services shall provide information to the visually impaired individual designated in the report concerning

available state and local services.

(b) For a visually impaired individual less than seventeen (17) years of age, the Indiana School for the Blind and Visually Impaired:

(1) has the primary duty of initially contacting the visually impaired individual or the individual's family; and

(2) shall notify the division of disability and rehabilitative services and the department of education of the school's findings.

As added by P.L.104-2003, SEC.1. Amended by P.L.218-2005, SEC.6; P.L.141-2006, SEC.54.

IC 12-12-9-5

Referrals

Sec. 5. This chapter does not prohibit a physician or an optometrist from making a referral to a local school corporation, an agency, the Indiana School for the Blind and Visually Impaired, or an agency or organization working with the blind or visually impaired.

As added by P.L.104-2003, SEC.1. Amended by P.L.218-2005, SEC.7.

IC 12-12-9-6

Educational materials

Sec. 6. The office of the secretary shall prepare and provide educational materials for:

(1) licensed optometrists;

(2) licensed physicians;

(3) the Indiana University School of Medicine; and

(4) the Indiana University School of Optometry;

to inform individuals and schools of the reporting requirements and services available for an individual who is blind or visually impaired.

As added by P.L.104-2003, SEC.1.

IC 12-12-9-7

Failure to make a report of blindness

Sec. 7. A person required to make a report of blindness under this chapter who fails to do so commits a Class C infraction.

As added by P.L.104-2003, SEC.1.

IC 12-12.5

ARTICLE 12.5. QUALITY IMPROVEMENT SERVICES

IC 12-12.5-1

Chapter 1. Bureau of Quality Improvement Services

IC 12-12.5-1-1

Establishment

Sec. 1. The bureau of quality improvement services is established within the division.

As added by P.L.243-2003, SEC.12.

IC 12-12.5-1-2

Organization of bureau

Sec. 2. The director shall organize the bureau in the manner necessary to carry out the bureau's duties.

As added by P.L.243-2003, SEC.12.

IC 12-12.5-1-3

Duties

Sec. 3. The bureau shall do the following:

(1) Monitor services provided by the following:

(A) An entity that provides services to an individual with funds provided by the division or under the authority of the division.

(B) An entity that has entered into a provider agreement under IC 12-15-11 to provide Medicaid in-home waiver services.

(2) Assist other bureaus in the division with quality assurance or quality improvement activities.

As added by P.L.243-2003, SEC.12.

IC 12-12.5-1-4

Establishment and administration of complaint process

Sec. 4. The bureau shall establish and administer a complaint process for the following:

(1) An individual that receives services from an entity with funds provided through the division or under the authority of the division.

(2) An entity that has entered into a provider agreement under IC 12-15-11 to provide Medicaid in-home waiver services.

(3) An individual or entity certified, licensed, or otherwise approved by the division.

As added by P.L.243-2003, SEC.12.

IC 12-12.5-1-5

Rules

Sec. 5. The director of the division may adopt rules under IC 4-22-2 necessary to carry out this chapter.

As added by P.L.243-2003, SEC.12.

IC 12-12.7

ARTICLE 12.7. CHILD DEVELOPMENT SERVICES

IC 12-12.7-1

Chapter 1. Bureau of Child Development Services

IC 12-12.7-1-1

Bureau of child development services established

Sec. 1. The bureau of child development services is established within the division.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-1-2

Organization of bureau; services for infants and toddlers with disabilities

Sec. 2. The director shall organize the bureau in the manner necessary to carry out the bureau's duties. However, the bureau must include a unit of services for infants and toddlers with disabilities.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-1-3

Bureau duties

Sec. 3. The bureau shall do the following:

(1) Plan, establish, and operate programs and services relating to child development services.

(2) Design all necessary state plans for child development services required for the receipt and disbursement of any money available to the state from the federal government.

(3) Direct the disbursement and administer the use of money from all sources for child development programs administered under this article.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2

Chapter 2. Infants and Toddlers With Disabilities Program

IC 12-12.7-2-1

"Agency"

Sec. 1. As used in this chapter, "agency" means a department, a commission, a council, a board, a bureau, a division, a service, an office, or an administration that is responsible for providing services to infants and toddlers with disabilities and their families, including the following:

(1) The division of mental health and addiction.
(2) The state department of health.
(3) The division of family resources.
(4) The division of disability, aging, and rehabilitative services.
(5) The department of education.
(6) The department of child services.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-2

"Council"

Sec. 2. As used in this chapter, "council" refers to the interagency coordinating council established by section 7 of this chapter.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-3

"Early intervention services"

Sec. 3. (a) As used in this chapter, "early intervention services" means developmental services that meet the following conditions:

(1) Are provided under public supervision.
(2) Are designed to meet the developmental needs of infants and toddlers with disabilities in at least one (1) of the areas specified in section 4(a)(1) of this chapter.
(3) Meet all required state and federal standards.
(4) Are provided by qualified personnel, including the following:
    (A) Early childhood special educators, early childhood educators, and special educators.
    (B) Speech and language pathologists and audiologists.
    (C) Occupational therapists.
    (D) Physical therapists.
    (E) Psychologists.
    (F) Social workers.
    (G) Nurses.
    (H) Nutritionists.
    (I) Family therapists.
    (J) Orientation and mobility specialists.
    (K) Pediatricians and other physicians.
(5) To the maximum extent appropriate, are provided in natural environments, including the home and community settings in which children without disabilities participate.

(6) Are provided in conformity with an individualized family service plan adopted in accordance with 20 U.S.C. 1435.

(b) The term includes the following services:

(1) Family training, counseling, and home visits.

(2) Special instruction.

(3) Speech and language pathology, audiology, and sign language and cued language services.

(4) Occupational therapy.

(5) Physical therapy.

(6) Psychological services.

(7) Service coordination services.

(8) Medical services only for diagnostic, evaluation, or consultation purposes.

(9) Early identification, screening, and assessment services.

(10) Other health services necessary for an infant or a toddler to benefit from the services.

(11) Vision services.

(12) Supportive technology services.

(13) Transportation and related costs that are necessary to enable an infant or a toddler and the infant's or toddler's family to receive early intervention services.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-4
"Infants and toddlers with disabilities"

Sec. 4. (a) As used in this chapter, "infants and toddlers with disabilities" means individuals from birth through two (2) years of age who need early intervention services because the individuals meet the following conditions:

(1) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in at least one (1) of the following:

(A) Cognitive development.

(B) Physical development.

(C) Communication development.

(D) Social or emotional development.

(E) Adaptive development.

(2) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(b) The term may also include, under rules adopted by the division, individuals from birth through two (2) years of age who are at risk of having substantial developmental delays if early intervention services are not provided.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-5
Purposes of chapter

Sec. 5. The purposes of this chapter are as follows:

(1) To enhance the development and minimize the potential for developmental delay of infants and toddlers with disabilities.

(2) To reduce educational costs to the state by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age.

(3) To minimize the likelihood of institutionalization and maximize the potential for independent living of individuals with disabilities.

(4) To enhance the capacity of families to meet the special needs of infants and toddlers with disabilities.

(5) To comply with 20 U.S.C. 1431 through 1445.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-6
Administration and supervision; financial responsibility

Sec. 6. (a) The division shall do the following:

(1) Carry out the general administration and supervision of programs and activities receiving assistance under this chapter, monitor programs and activities implemented by the state, regardless of whether the programs and activities are receiving assistance under this chapter, and ensure that the state complies with 20 U.S.C. 1431 through 1445 in implementing this chapter.

(2) Identify and coordinate all available resources from federal, state, local, and private sources, including public and private insurance coverage and using all existing applicable resources to the full extent of the resources.

(3) Develop procedures to ensure that early intervention services are provided to infants and toddlers with disabilities and their families in a timely manner pending the resolution of disputes among public agencies and providers.

(4) Resolve disputes within an agency or between agencies.

(5) Enter into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services consistent with Indiana law and procedures for resolving disputes, including all additional components necessary to ensure meaningful cooperation and coordination.

(6) Develop and implement utilization review procedures for services provided under this chapter.

(b) The state shall designate an individual or entity responsible for assigning financial responsibility among appropriate agencies under this chapter.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-7
Establishment of council

Sec. 7. The interagency coordinating council is established.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-8
Membership

Sec. 8. (a) The council consists of at least fifteen (15) but not

more than twenty-five (25) members appointed by the governor as follows:

(1) At least twenty percent (20%) of the members must be individuals who:

(A) are parents, including minority parents, of infants or toddlers with disabilities or of children who are less than thirteen (13) years of age with disabilities; and

(B) have knowledge of or experience with programs for infants and toddlers with disabilities.

At least one (1) of the members described in this subdivision must be a parent of an infant or toddler with a disability or of a child less than seven (7) years of age with a disability.

(2) At least twenty percent (20%) of the members must be public or private providers of early intervention services.

(3) At least one (1) member must be a member of the general assembly.

(4) Each of the state agencies involved in the provision of or payment for early intervention services to infants and toddlers with disabilities and their families must be represented by at least one (1) member. The members described in this subdivision must have sufficient authority to engage in policy planning and implementation on behalf of the state agency the member represents.

(5) At least one (1) member must be involved in personnel preparation.

(6) At least one (1) member must:

(A) represent a state educational agency responsible for preschool services to children with disabilities; and

(B) have sufficient authority to engage in policy planning and implementation on behalf of the agency.

(7) At least one (1) member must represent the department of insurance created by IC 27-1-1-1.

(8) At least one (1) member must represent an agency or program that is:

(A) located in Indiana; and

(B) authorized to participate in the Head Start program under 42 U.S.C. 9831 et seq.

(9) At least one (1) member must represent a state agency responsible for child care.

(10) At least one (1) member must represent the office of Medicaid policy and planning established by IC 12-8-6.5-1.

(11) At least one (1) member must be a representative designated by the office of coordinator for education of homeless children and youths.

(12) At least one (1) member must be a state foster care representative from the department of child services established by IC 31-25-1-1.

(13) At least one (1) member must represent the division of mental health and addiction established by IC 12-21-1-1.

(b) To the extent possible, the governor shall ensure that the

membership of the council reasonably represents the population of Indiana.
As added by P.L.93-2006, SEC.11. Amended by P.L.160-2012, SEC.30.

IC 12-12.7-2-9
Appointment and terms of council members
Sec. 9. (a) The governor shall make the initial appointments under section 8 of this chapter with staggered terms and subsequent appointments for terms of three (3) years.
(b) A council member may be reappointed for succeeding terms.
As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-10
Chairperson
Sec. 10. (a) The governor shall:
(1) designate a member of the council to serve as the chairperson of the council; or
(2) require the council to designate a chairperson from within its membership.
(b) A member of the council who is a representative of the division may not serve as chairperson of the council.
(c) A chairperson may be reappointed for succeeding terms.
As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-11
Called meetings
Sec. 11. Any of the following may call a meeting of the council:
(1) The governor.
(2) The chairperson of the council.
As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-12
Vacancies
Sec. 12. The governor shall fill vacancies on the council.
As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-13
Frequency of meetings
Sec. 13. The council shall meet at least quarterly each year.
As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-14
Budget; use of funds
Sec. 14. The council may prepare and approve a budget using funds under this chapter to do the following:
(1) Conduct hearings and forums.
(2) Reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties, including child care for the members

who are representatives of parents.

(3) Pay compensation to a member of the council if the member is not employed or is required to forfeit wages from other employment when absent from the other employment due to the performance of council business.

(4) Hire the staff and obtain services that are necessary to carry out the council's functions.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-15

Powers and duties

Sec. 15. The council shall do the following:

(1) Advise and assist the division in the performance of the responsibilities set forth in section 6 of this chapter, particularly the following:

(A) Identification of sources of fiscal and other support for services for early intervention programs.

(B) Use of existing resources to the full extent in implementing early intervention programs.

(C) Assignment of financial responsibility to the appropriate agency.

(D) Promotion of interagency agreements.

(E) Development and implementation of utilization review procedures.

(2) Advise and assist the division in the preparation of applications required under 20 U.S.C. 1431 through 1445.

(3) Prepare and submit an annual report to the governor, the general assembly, and the United States Secretary of Education by November 1 of each year concerning the status of early intervention programs for infants and toddlers with disabilities and their families. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.

(4) Periodically request from the agencies responsible for providing early childhood intervention services for infants and toddlers with disabilities and preschool special education programs written reports concerning the implementation of each agency's respective programs.

(5) Make recommendations to the various agencies concerning improvements to each agency's delivery of services.

(6) Otherwise comply with 20 U.S.C. 1441.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-16

Advice and assistance regarding other services

Sec. 16. (a) To the extent that the services are appropriate, the council shall advise and assist the department of education regarding the transition of toddlers with disabilities to preschool special education services under IC 20-35.

(b) The council may advise and assist the division and the

department of education regarding the provision of appropriate services for children who are less than six (6) years of age.
As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-17
Cost participation schedule; cost participation plan

Sec. 17. (a) As used in this section, "per unit of treatment" means an increment of fifteen (15) minutes for services provided to an individual.

(b) A family shall participate in the cost of programs and services provided under this chapter to the extent allowed by federal law according to the following cost participation schedule:

Percentage of Federal Income Poverty Level		Copayment Per Unit of Treatment	Maximum Monthly Cost Share
At Least	But Not More Than		
0%	250%	$ 0	$ 0
251%	350%	$ 0.75	$ 48
351%	450%	$ 1.50	$ 96
451%	550%	$ 3.75	$ 240
551%	650%	$ 6.25	$ 400
651%	750%	$ 13	$ 800
751%	850%	$ 19	$ 1,200
851%		$ 25	$1,600

(c) A cost participation plan used by the division for families to participate in the cost of the programs and services provided under this chapter:

(1) must:

(A) be based on income and ability to pay;

(B) provide for a review of a family's cost participation amount:

(i) annually; and

(ii) within thirty (30) days after the family reports a reduction in income; and

(C) allow the division to waive a required copayment if other medical expenses or personal care needs expenses for any member of the family reduce the level of income the family has available to pay copayments under this section;

(2) may allow a family to voluntarily contribute payments that exceed the family's required cost participation amount;

(3) must require the family to allow the division access to all health care coverage information that the family has concerning the infant or toddler who is to receive services;

(4) must require families to consent to the division billing third party payors for early intervention services provided;

(5) may allow the division to waive the billing to third party payors if the family is able to demonstrate financial or personal hardship on the part of the family member; and

(6) must require the division to waive the family's monthly

copayments in any month for those services for which it receives payment from the family's health insurance coverage.

(d) Funds received through a cost participation plan under this section must be used to fund programs described in section 18 of this chapter.

As added by P.L.93-2006, SEC.11. Amended by P.L.229-2011, SEC.120.

IC 12-12.7-2-17.5
Remedies for failure to pay for services

Sec. 17.5. (a) Subject to subsection (b), the agency may do any of the following for any amount owed under section 17 of this chapter by a person if the amount owed is more than sixty (60) days past due:

(1) Set off under IC 6-8.1-9.5 on any state tax refund owed to the person against the delinquent debt.

(2) Terminate services provided to an individual under the program for failure to pay the cost participation set forth in section 17 of this chapter.

(b) The agency may not terminate services under subsection (a)(2) until the agency has provided the family with written notice:

(1) stating:

(A) the amount of money owed by the family that is past due for services provided; and

(B) the amount of payment necessary in order to prevent termination of services; and

(2) advising the family to contact the agency:

(A) for assistance; or

(B) to negotiate an alternative payment arrangement or to recalculate the amount of payment owed.

As added by P.L.229-2011, SEC.121. Amended by P.L.293-2013(ts), SEC.41.

IC 12-12.7-2-18
Adoption of rules

Sec. 18. Upon the recommendations of the council, the division shall adopt rules under IC 4-22-2 providing for a statewide system of coordinated, comprehensive, multidisciplinary, interagency programs that provide appropriate early intervention services to all infants and toddlers with disabilities and their families to the extent required under 20 U.S.C. 1431 through 1445.

As added by P.L.93-2006, SEC.11.

IC 12-12.7-2-19
Report

Sec. 19. The budget agency shall annually report to the budget committee and the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 the following information concerning the funding of the program under this chapter:

(1) The total amount billed to a federal or state program each

state fiscal year for services provided under this chapter, including the following programs:

(A) Medicaid.

(B) The children's health insurance program.

(C) The federal Temporary Assistance for Needy Families (TANF) program (45 CFR 265).

(D) Any other state or federal program.

(2) The total amount billed each state fiscal year to an insurance company for services provided under this chapter and the total amount reimbursed by the insurance company.

(3) The total copayments collected under this chapter each state fiscal year.

(4) The total administrative expenditures.

The report must be submitted before September 1 for the preceding state fiscal year in an electronic format under IC 5-14-6.

As added by P.L.93-2006, SEC.11. Amended by P.L.3-2009, SEC.7; P.L.53-2014, SEC.102.

IC 12-12.7-2-20

Mandatory features of statewide early intervention services system

Sec. 20. To the extent required in 20 U.S.C. 1431 through 1445, the statewide system must include the following:

(1) A definition of the term "developmentally delayed" to be used in carrying out the programs under this chapter.

(2) The timetables necessary for ensuring that the appropriate early intervention services are available to all infants and toddlers with disabilities before the beginning of the fifth year of the state's participation under 20 U.S.C. 1431 through 1445.

(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant and toddler with disabilities in Indiana and the needs of the families, to appropriately assist in the development of the infant and toddler with disabilities program.

(4) For each infant and toddler with disabilities in Indiana, an individualized family service plan in accordance with 20 U.S.C. 1436, including case management services consistent with the individualized family service plan.

(5) A comprehensive system for identifying infants and toddlers with disabilities, including a system for making referrals to service providers that:

(A) includes time lines; and

(B) provides for the participation by primary referral sources.

(6) A public awareness program.

(7) A central directory that includes early intervention services, resources, experts, and research and demonstration projects being conducted.

(8) A comprehensive system of personnel development.

(9) A policy pertaining to contracting or making other arrangements with service providers to provide early

intervention services in Indiana, consistent with 20 U.S.C. 1431 through 1445 and including the contents of the application used and the conditions of the contract or other arrangements.

(10) A procedure for securing timely reimbursement of funds used under this chapter in accordance with 20 U.S.C. 1440(a).

(11) Procedural safeguards with respect to programs under this chapter as required under 20 U.S.C. 1439.

(12) Policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this chapter are appropriately and adequately prepared and trained, including the following:

(A) The establishment and maintenance of standards that are consistent with any state approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the personnel are providing early intervention services.

(B) To the extent the standards are not based on the highest requirements in Indiana applicable to the specific profession or discipline, the steps the state is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in Indiana.

(13) A system for compiling data on the following:

(A) The number of infants and toddlers with disabilities and their families in Indiana in need of appropriate early intervention services, which may be based on a sampling of data.

(B) The number of infants, toddlers, and families of infants and toddlers served.

(C) The types of services provided, which may be based on a sampling of data.

(D) Other information required under 20 U.S.C. 1431 through 1445.

As added by P.L.93-2006, SEC.11.

IC 12-13

ARTICLE 13. DIVISION OF FAMILY RESOURCES

IC 12-13-1

Chapter 1. Establishment of Division

IC 12-13-1-1

Establishment

Sec. 1. The division of family resources is established.

As added by P.L.2-1992, SEC.7. Amended by P.L.234-2005, SEC.19.

IC 12-13-1-2

Application of IC 12-8-8

Sec. 2. IC 12-8-8.5 applies to the division.

As added by P.L.2-1992, SEC.7. Amended by P.L.160-2012, SEC.31.

IC 12-13-2
Chapter 2. Director of Division

IC 12-13-2-1
Appointment

Sec. 1. The division shall be administered by a director appointed under IC 12-8-8.5-1.

As added by P.L.2-1992, SEC.7. Amended by P.L.160-2012, SEC.32.

IC 12-13-2-2
Bond and oath

Sec. 2. (a) Before the director begins official duties, the director must do the following:

(1) Execute a bond payable to the state in an amount and with sureties as approved by the secretary that is conditioned on the faithful discharge of the director's duties.

(2) Take and subscribe an oath that must be endorsed upon the director's official bond.

(b) The executed bond and oath shall be filed in the office of the secretary of state.

As added by P.L.2-1992, SEC.7.

IC 12-13-2-3
Duties

Sec. 3. The director is responsible for the following:

(1) The appointment of state investigators or boards of review provided by law that are necessary to ensure a fair hearing to an applicant or a recipient. A fair hearing shall be granted at the request of an aggrieved person who desires a hearing. The division shall review cases upon the request of an applicant, a recipient, or an aggrieved person.

(2) The adoption of all policies and rules for the division.

(3) The administrative and executive duties and responsibilities of the division.

(4) The establishment of salaries for the officers and employees of the division within the salary ranges of the pay plan adopted by the Indiana personnel advisory board and approved by the budget committee.

(5) The establishment of minimum standards of assistance for old age and dependent children recipients. A standard established under this subdivision must apply to all individuals in Indiana.

As added by P.L.2-1992, SEC.7. Amended by P.L.272-1999, SEC.38.

IC 12-13-3

Chapter 3. Personnel of Division

IC 12-13-3-1

Repealed

(Repealed by P.L.6-2012, SEC.91.)

IC 12-13-3-2

Criminal and civil liability; actions or proceedings; defense; damages

Sec. 2. (a) If a member, an officer, or an employee of the division is accused of an offense or sued for civil damages because of an act performed within the course of the individual's employment or because of an act performed under the authority or order of a superior officer, the attorney general shall defend the individual in an action for civil damages. If the action or proceeding is criminal in nature, the governor shall designate counsel to represent and defend the accused and the state is financially responsible for the expense of the defense.

(b) This section does not do either of the following:

(1) Deprive an individual of the right to select defense counsel of the individual's choice at the individual's expense.

(2) Relieve a person from responsibility for civil damages.

As added by P.L.2-1992, SEC.7.

IC 12-13-4

Chapter 4. Division Advisory Council

IC 12-13-4-1

"Council" defined

Sec. 1. As used in this chapter, "council" refers to the division of family resources advisory council established by this chapter.

As added by P.L.2-1992, SEC.7. Amended by P.L.1-1994, SEC.55; P.L.145-2006, SEC.73.

IC 12-13-4-2

Establishment

Sec. 2. The division of family resources advisory council is established.

As added by P.L.2-1992, SEC.7. Amended by P.L.145-2006, SEC.74.

IC 12-13-4-3

Members

Sec. 3. The council consists of the following eleven (11) members:

(1) The director.

(2) Ten (10) individuals:

(A) appointed by the secretary; and

(B) who have a recognized knowledge of or interest in the programs administered by the division.

As added by P.L.2-1992, SEC.7.

IC 12-13-4-4

Fixed term of members

Sec. 4. Each member of the council appointed under section 3(2) of this chapter has a fixed term as provided in IC 12-8-2.5-4.

As added by P.L.2-1992, SEC.7. Amended by P.L.160-2012, SEC.33.

IC 12-13-4-5

Presiding officer

Sec. 5. The director serves as presiding officer of the council.

As added by P.L.2-1992, SEC.7.

IC 12-13-4-6

Meetings

Sec. 6. The council shall meet at least monthly and is subject to special meetings at the call of the council's presiding officer.

As added by P.L.2-1992, SEC.7.

IC 12-13-4-7

Application of IC 12-8-2.5

Sec. 7. IC 12-8-2.5 applies to the council.

As added by P.L.2-1992, SEC.7. Amended by P.L.160-2012, SEC.34.

IC 12-13-5

Chapter 5. Duties of Division

IC 12-13-5-1

Powers and duties

Sec. 1. The division shall administer or supervise the public welfare activities of the state. The division has the following powers and duties:

(1) The administration of old age assistance, aid to dependent children, and assistance to the needy blind and persons with disabilities, excluding assistance to children with special health care needs.

(2) The administration of the licensing and inspection under IC 12-17.2.

(3) The provision of services to county governments, including the following:

(A) Organizing and supervising county offices for the effective administration of public welfare functions.

(B) Compiling statistics and necessary information concerning public welfare problems throughout Indiana.

(C) Researching and encouraging research into crime, delinquency, physical and mental disability, and the cause of dependency.

(4) Prescribing the form of, printing, and supplying to the county offices blanks for applications, reports, affidavits, and other forms the division considers necessary and advisable.

(5) Cooperating with the federal Social Security Administration and with any other agency of the federal government in any reasonable manner necessary and in conformity with IC 12-13 through IC 12-19 to qualify for federal aid for assistance to persons who are entitled to assistance under the federal Social Security Act. The responsibilities include the following:

(A) Making reports in the form and containing the information that the federal Social Security Administration Board or any other agency of the federal government requires.

(B) Complying with the requirements that a board or agency finds necessary to assure the correctness and verification of reports.

(6) Appointing from eligible lists established by the state personnel board employees of the division necessary to effectively carry out IC 12-13 through IC 12-19. The division may not appoint a person who is not a citizen of the United States and who has not been a resident of Indiana for at least one (1) year immediately preceding the person's appointment unless a qualified person cannot be found in Indiana for a position as a result of holding an open competitive examination.

(7) Assisting the office of Medicaid policy and planning in fixing fees to be paid to ophthalmologists and optometrists for the examination of applicants for and recipients of assistance as

needy blind persons.

(8) When requested, assisting other departments, agencies, divisions, and institutions of the state and federal government in performing services consistent with this article.

(9) Acting as the agent of the federal government for the following:

(A) In welfare matters of mutual concern under IC 12-13 through IC 12-19, except for responsibilities of the department of child services under IC 31-25-2.

(B) In the administration of federal money granted to Indiana in aiding welfare functions of the state government.

(10) Administering additional public welfare functions vested in the division by law and providing for the progressive codification of the laws the division is required to administer.

(11) Supervising day care centers.

(12) Compiling information and statistics concerning the ethnicity and gender of a program or service recipient.

As added by P.L.2-1992, SEC.7. Amended by P.L.20-1992, SEC.26; P.L.81-1992, SEC.27; P.L.1-1993, SEC.130; P.L.23-1993, SEC.52; P.L.4-1993, SEC.51; P.L.5-1993, SEC.64; P.L.142-1995, SEC.3; P.L.1-1997, SEC.53; P.L.35-1998, SEC.1; P.L.273-1999, SEC.79; P.L.234-2005, SEC.20; P.L.145-2006, SEC.75.

IC 12-13-5-2

Services and programs administered

Sec. 2. The division shall administer the following:

(1) A child development associate scholarship program.

(2) Any school age dependent care program.

(3) Migrant day care services.

(4) The migrant nutrition program.

(5) The home visitation and social services program.

(6) The educational consultants program.

(7) Community restitution or service programs.

(8) The crisis nursery program.

(9) Social services programs.

(10) The step ahead comprehensive early childhood grant program.

(11) Any other program:

(A) designated by the general assembly; or

(B) administered by the federal government under grants consistent with the duties of the division.

As added by P.L.2-1992, SEC.7. Amended by P.L.4-1993, SEC.52; P.L.5-1993, SEC.65; P.L.32-2000, SEC.7; P.L.234-2005, SEC.21; P.L.173-2006, SEC.45; P.L.181-2006, SEC.53; P.L.1-2007, SEC.119; P.L.130-2009, SEC.17; P.L.128-2012, SEC.5.

IC 12-13-5-3

Rules; agents

Sec. 3. The division may do the following:

(1) Adopt rules under IC 4-22-2 and take action that is

necessary or desirable to carry out IC 12-13 through IC 12-19 and that is not inconsistent with IC 12-13 through IC 12-19. Each county director shall keep copies of the rules on file available for inspection by any person interested.

(2) Under a division rule, designate county offices to serve as agents of the division in the performance of all public welfare activities in the county.

As added by P.L.2-1992, SEC.7. Amended by P.L.4-1993, SEC.53; P.L.5-1993, SEC.66; P.L.108-1996, SEC.3.

IC 12-13-5-4
Powers of supervision of state institutions under IC 12-13 through IC 12-19 restricted

Sec. 4. IC 12-13 through IC 12-19 conferring powers of supervision on the division do not include the actual management of state institutions or the selection of the personnel of state institutions.

As added by P.L.2-1992, SEC.7.

IC 12-13-5-5
Records and reports

Sec. 5. (a) Each county auditor shall keep records and make reports relating to the county welfare fund (before July 1, 2001), the family and children's fund (before January 1, 2009), and other financial transactions as required under IC 12-13 through IC 12-19 and as required by the division or the department of child services.

(b) All records provided for in IC 12-13 through IC 12-19 shall be kept, prepared, and submitted in the form required by the division or the department of child services and the state board of accounts.

As added by P.L.2-1992, SEC.7. Amended by P.L.36-1994, SEC.13; P.L.273-1999, SEC.80; P.L.234-2005, SEC.22; P.L.146-2008, SEC.384.

IC 12-13-5-6
Personnel

Sec. 6. The director shall appoint necessary eligible personnel for the efficient performance of the division's duties.

As added by P.L.2-1992, SEC.7.

IC 12-13-5-7
Bureau head; employees

Sec. 7. (a) The director shall appoint a bureau head or an employee who reports directly to the director.

(b) The bureau head shall, with the approval of the director, appoint each employee who reports directly to the head.

As added by P.L.2-1992, SEC.7.

IC 12-13-5-8
Deputies; payment of salaries

Sec. 8. (a) The attorney general shall assign to the division the number of deputies the director determines are needed to assist in the

administration of the division.

(b) The salary of each deputy assigned to the division shall, during the deputy's service to the division, be paid from the money made available for the administration and enforcement of IC 12-13 through IC 12-19.

As added by P.L.2-1992, SEC.7.

IC 12-13-5-9

Failure or refusal to perform duty or obey order; enforcement procedures

Sec. 9. (a) If a public official, board, or commission fails or refuses to perform a duty under IC 12-13 through IC 12-19, the division or an agency allowed by law to coordinate or supervise assistance under IC 12-13 through IC 12-19 may order the public official, board, or commission to perform the duty.

(b) If the public official, board, or commission refuses to obey an order issued under subsection (a), the agency issuing the order under subsection (a) may institute a mandamus proceeding in a court to compel the public official, board, or commission to perform the duty.

(c) The attorney general shall assist in proceedings under this section.

As added by P.L.2-1992, SEC.7.

IC 12-13-5-10

Amendment or repeal of provision of title; claim for compensation barred

Sec. 10. The amendment or repeal of a provision of this title does not create a claim for compensation on behalf of a recipient under this title.

As added by P.L.2-1992, SEC.7.

IC 12-13-5-11

Taking charge of child under IC 12-13 through IC 12-19 over parental objection restricted

Sec. 11. Except as provided in IC 31-37-7-3, IC 12-13 through IC 12-19 does not authorize a state or county official, agent, or representative, in carrying out IC 12-13 through IC 12-19, to take charge of a child over the objection of either parent of the child or of the person standing in loco parentis to the child, except under a court order.

As added by P.L.2-1992, SEC.7. Amended by P.L.79-1994, SEC.1; P.L.1-1997, SEC.54.

IC 12-13-5-12

Liberal construction of IC 12-13 through IC 12-19

Sec. 12. IC 12-13 through IC 12-19 shall be liberally construed so that the purposes may be accomplished as equitably, economically, and expeditiously as possible.

As added by P.L.2-1992, SEC.7.

IC 12-13-5-13
Repealed
(Repealed by P.L.143-2008, SEC.15.)

IC 12-13-5-14
Contractor responsibilities; report

Sec. 14. (a) As used in this section, "committee" refers to the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4.

(b) A contractor for the division, office, or secretary that has responsibility for processing eligibility intake for the federal Supplemental Nutrition Assistance program (SNAP), the Temporary Assistance for Needy Families (TANF) program, and the Medicaid program shall do the following:

(1) Review the eligibility intake process for:

(A) document management issues, including:

(i) unattached documents;

(ii) number of documents received by facsimile;

(iii) number of documents received by mail;

(iv) number of documents incorrectly classified;

(v) number of documents that are not indexed or not correctly attached to cases;

(vi) number of complaints from clients regarding lost documents; and

(vii) number of complaints from clients resolved regarding lost documents;

(B) direct client assistance at county offices, including the:

(i) number of clients helped directly in completing eligibility application forms;

(ii) wait times at local offices;

(iii) amount of time an applicant is given as notice before a scheduled applicant appointment;

(iv) amount of time an applicant waits for a scheduled appointment; and

(v) timeliness of the tasks sent by the contractor to the state for further action, as specified through contracted performance standards; and

(C) call wait times and abandonment rates.

(2) Provide an update on employee training programs.

(3) Provide a copy of the monthly key performance indicator report.

(4) Provide information on error reports and contractor compliance with the contract.

(5) Provide oral and written reports to the committee concerning matters described in subdivision (1):

(A) in a manner and format to be agreed upon with the committee; and

(B) whenever the committee requests.

However, written reports shall be provided in an electronic format under IC 5-14-6.

(6) Report on information concerning assistance provided by voluntary community assistance networks (V-CANs).

(7) Report on the independent performance audit conducted on the contract.

(c) Solely referring an individual to a computer or telephone does not constitute the direct client assistance referred to in subsection (b)(1)(B).

As added by P.L.153-2009, SEC.2. Amended by P.L.205-2013, SEC.183; P.L.53-2014, SEC.103.

IC 12-13-6

Chapter 6. Creation of Bureaus and Bureau Responsibilities

IC 12-13-6-1

Bureaus established

Sec. 1. The following bureaus are established within the division:

(1) A bureau of child development.

(2) A bureau of economic independence.

As added by P.L.2-1992, SEC.7. Amended by P.L.186-2001, SEC.3; P.L.234-2005, SEC.23.

IC 12-13-6-2

Bureau head and assistant supervisor; bond and oath; bureau of family independence responsibilities

Sec. 2. Subject to the authority of the division and the director, the following apply to the bureaus:

(1) The bureau of family independence has immediate charge of old age assistance, assistance to dependent children in the children's own homes, and assistance to the blind.

(2) The officer who is in charge of a bureau is the bureau head.

(3) Before entering upon the discharge of an official duty, the bureau head and assistant supervisor shall execute a bond payable to the state in an amount and with sureties approved by the governor that is conditioned on the faithful discharge of official duties.

(4) Each bureau head and assistant supervisor shall take and subscribe an oath, which shall be endorsed upon the official bond. The bond and oath when executed shall be filed in the office of the secretary of state.

As added by P.L.2-1992, SEC.7.

IC 12-13-6-3

Youth development bureau responsibilities

Sec. 3. The youth development bureau shall plan, fund, and coordinate programs and services for children and youth that promote optimal functioning. Specific responsibilities include the following:

(1) Coordinating services, activities, and programs with other agencies or divisions that provide services to children with emotional disturbances.

(2) Serving as a link with local schools to participate in the planning for services funded by the department of education's educational opportunities for at-risk students program.

(3) Providing collaboration and assistance to school health programs, comprehensive health curricula, and school health clinics in promoting maximization of a youth's physical, social, mental, vocational, and emotional potential.

(4) Planning and administering community based programs and services in conjunction with child advocacy, community education, and information and referral sources for the prevention of juvenile delinquency.

(5) Facilitating the planned and efficient movement of students with disabilities from a secondary school to a postsecondary educational institution or employment.

As added by P.L.2-1992, SEC.7. Amended by P.L.2-2007, SEC.156.

IC 12-13-7
Chapter 7. Administration of Money

IC 12-13-7-1
Grants, funds, and other money administered

Sec. 1. The division shall administer the following:

(1) The Child Care and Development Block Grant under 42 U.S.C. 9858 et seq.

(2) The federal Food Stamp Program under 7 U.S.C. 2011 et seq.

(3) Title IV-A of the federal Social Security Act.

(4) Any other funding source:

(A) designated by the general assembly; or

(B) available from the federal government under grants that are consistent with the duties of the division.

As added by P.L.2-1992, SEC.7. Amended by P.L.2-2005, SEC.46; P.L.234-2005, SEC.24; P.L.181-2006, SEC.54; P.L.130-2009, SEC.18.

IC 12-13-7-2
Division as single state agency responsible for administering certain grants, funds, and programs

Sec. 2. The division is the single state agency responsible for administering the following:

(1) The Child Care and Development Block Grant under 42 U.S.C. 9858 et seq. The division shall apply to the United States Department of Health and Human Services for a grant under the Child Care Development Block Grant.

(2) The federal Food Stamp Program under 7 U.S.C. 2011 et seq.

As added by P.L.2-1992, SEC.7. Amended by P.L.2-2005, SEC.47; P.L.234-2005, SEC.25.

IC 12-13-7-3
Social Security Act and regulations; acceptance and compliance

Sec. 3. (a) The state accepts all of the provisions and benefits of the federal Social Security Act and regulations adopted under the federal Social Security Act.

(b) The division and the county offices may administer and shall observe and comply with all of the requirements of the federal Social Security Act and regulations issued under the federal Social Security Act.

As added by P.L.2-1992, SEC.7. Amended by P.L.4-1993, SEC.54; P.L.5-1993, SEC.67.

IC 12-13-7-4
Acceptance by state of federal law concerning needy and disabled persons and general public and child welfare

Sec. 4. (a) The state accepts the provisions and benefits of the federal Social Security Act, the Economic Opportunity Act of 1964,

and any related federal law concerning needy and persons with disabilities and general public and child welfare.

(b) A law described under subsection (a) shall be construed to secure to the state and local units of government maximum participation in the benefits of the laws.

(c) If required by law, a proportionate share of refunds, recoveries, or repayments of assistance or administration costs shall be repaid to a federal agency on the basis of federal participation in the costs.

As added by P.L.2-1992, SEC.7. Amended by P.L.23-1993, SEC.53.

IC 12-13-7-5

Cooperation with federal government in administration of certain provisions of federal Social Security Act

Sec. 5. (a) The division is designated as the state agency to cooperate with the federal government in the administration of the following provisions of the federal Social Security Act:

(1) 42 U.S.C. 301 through 42 U.S.C. 306.
(2) 42 U.S.C. 601 through 42 U.S.C. 606.
(3) 42 U.S.C. 711 through 42 U.S.C. 715.
(4) 42 U.S.C. 721.
(5) 42 U.S.C. 1201 through 42 U.S.C. 1206.

(b) The division shall cooperate with the appropriate departments of the federal government and with all other departments of state and local governments in the:

(1) enforcement and administration of;
(2) amendments to; and
(3) regulations issued under;

the provision described in subsection (a).

As added by P.L.2-1992, SEC.7.

IC 12-13-7-6

Federal food stamp program; administration and enforcement; incentive payments

Sec. 6. (a) The food stamp bureau shall provide an incentive payment to the offices of prosecuting attorneys for the investigation or prosecution of food stamp fraud under the federal Food Stamp Program (7 U.S.C. 2011 et seq.), as provided by 7 CFR 277.15.

(b) The incentive payments shall be made by the auditor of state upon request of the food stamp bureau. Payments must be deposited in the county treasury for distribution on a quarterly basis and in equal shares to the following:

(1) The county general fund.
(2) The operating budget of the offices of prosecuting attorneys.

(c) Notwithstanding IC 36-2-5-2 and IC 36-3-6, distribution of the money from the county treasury shall be made without first obtaining an appropriation from the county fiscal body. The amount that a county receives and the terms under which the incentive payments are made must be consistent with the federal law and regulations governing the federal Food Stamp Program (7 U.S.C. 2011 et seq.).

(d) The director of the division shall adopt rules under IC 4-22-2

necessary to administer and supervise the federal Food Stamp Program in Indiana.
As added by P.L.2-1992, SEC.7.

IC 12-13-7-7
Money received by state under federal Social Security Act; treasurer as custodian

Sec. 7. The treasurer of state is the custodian of money received by the state from an appropriation made by the United States Congress for the purpose of cooperating with the states in the enforcement and administration of the federal Social Security Act.
As added by P.L.2-1992, SEC.7.

IC 12-13-7-8
Reception and payment of money

Sec. 8. (a) The treasurer of state may receive money:

(1) received from a source other than the federal Social Security Act;

(2) not received from taxes levied in the county; and

(3) that under IC 12-13 through IC 12-19 the division and county offices are authorized to collect, receive, and administer.

(b) The treasurer of state may pay the money received under subsection (a) into the proper fund or the proper account of the state general fund, provide for the proper custody of the money, and make disbursements upon the order of the division and upon warrant of the auditor of state.
As added by P.L.2-1992, SEC.7. Amended by P.L.4-1993, SEC.55; P.L.5-1993, SEC.68.

IC 12-13-7-9
Payment and deposit of money

Sec. 9. (a) Money:

(1) received from the federal government by the treasurer of state to defray the expenses and pay the claims and obligations incurred in the administration of the federal Social Security Act;

(2) received from any other source; and

(3) that under IC 12-13 through IC 12-19 the division and county offices may collect, receive, and administer;

shall be paid into the respective funds or respective accounts of the state general fund.

(b) Money received under subsection (a) for the following population groups shall be deposited as follows:

(1) Old age assistance shall be paid into the old age assistance account.

(2) Services for dependent children shall be paid into the aid to dependent children account.

(3) Assistance to the needy blind shall be paid into the needy blind account.

(4) Assistance to the needy permanently and totally disabled persons shall be paid into the needy disabled person account.

As added by P.L.2-1992, SEC.7. Amended by P.L.4-1993, SEC.56; P.L.5-1993, SEC.69; P.L.128-2012, SEC.6.

IC 12-13-7-10
Repealed
(Repealed by P.L.273-1999, SEC.124.)

IC 12-13-7-11
Repealed
(Repealed by P.L.273-1999, SEC.124.)

IC 12-13-7-12
Disclosure of financial transactions necessary to administer IC 12-13 through IC 12-19; approval
Sec. 12. (a) The division shall do the following:
(1) Prepare and submit to the state board of accounts for approval forms and records for assistance, receipts, disbursements, advancements, transfers, and other financial transactions necessary to administer IC 12-13 through IC 12-19.
(2) Disclose financial transactions connected with subdivision (1).
(b) Upon the approval and adoption by the state board of accounts, the division shall prescribe the forms, records, and method of accounting for all counties.
As added by P.L.2-1992, SEC.7. Amended by P.L.234-2005, SEC.26; P.L.128-2012, SEC.7.

IC 12-13-7-13
Repealed
(Repealed by P.L.273-1999, SEC.124.)

IC 12-13-7-14
Repealed
(Repealed by P.L.273-1999, SEC.124.)

IC 12-13-7-15
Repealed
(Repealed by P.L.273-1999, SEC.124.)

IC 12-13-7-16
Repealed
(Repealed by P.L.273-1999, SEC.124.)

IC 12-13-7-17
Repealed
(Repealed by P.L.146-2008, SEC.808.)

IC 12-13-7-18
Budget
Sec. 18. The director of the division shall prepare a biennial

budget of money necessary to be appropriated by the general assembly for the division for the purposes of IC 12-13 through IC 12-19. The budget must include an estimate of all federal money that may be allotted to the state by the federal government for the purposes of the division. The budget shall be submitted to and filed with the budget director.
As added by P.L.2-1992, SEC.7. Amended by P.L.234-2005, SEC.27.

IC 12-13-7-19
State or federal higher education award paid directly to institution as income affecting eligibility for assistance

Sec. 19. Except as provided by federal law, if an individual receives a state or federal higher education award that is paid directly to an approved postsecondary educational institution for that individual's benefit:

(1) the individual is not required to report the award as income or as a resource of the individual when applying for assistance administered under this chapter; and

(2) the award may not be considered as income or a resource of the individual in determining initial or continuing eligibility for assistance administered under this article.

As added by P.L.2-1992, SEC.7. Amended by P.L.2-2007, SEC.157.

IC 12-13-7-20
Repealed

(Repealed by P.L.273-1999, SEC.124.)

IC 12-13-7-21
Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 12-13-8
Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 12-13-9
Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 12-13-10
Repealed

(Repealed by P.L.128-2012, SEC.8.)

IC 12-13-11
Repealed

(Repealed by P.L.272-1999, SEC.66.)

IC 12-13-12
Repealed

(Repealed by P.L.133-2012, SEC.67.)

IC 12-13-13
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-13-14

Chapter 14. Electronic Benefits Transfer

IC 12-13-14-1

Definitions

Sec. 1. (a) As used in this chapter, "automated teller machine" means an electronic hardware device owned or operated by or on behalf of a financial institution or retailer that is capable of dispensing currency and responding to balance inquiries through the use of a magnetic stripe card issued by or on behalf of the division for distribution of assistance through an EBT system as described in this chapter.

(b) As used in this chapter, "commission" refers to the electronic benefits transfer commission established by this chapter.

(c) As used in this chapter, "Department" refers to the United States Department of Health and Human Services.

(d) As used in this chapter, "EBT program" means an electronic benefits transfer program.

(e) As used in this chapter, "financial institution" means a bank, trust company, savings institution, credit union, or any other organization:

(1) whose principal business activity is providing banking or financial services to the public; and

(2) that is organized, supervised, and authorized to do business in Indiana under IC 28 or Title 12 of the United States Code.

(f) As used in this chapter, "food retailer" means a retailer that:

(1) sells food items to consumers; and

(2) has been authorized under 7 CFR 278 to participate in the food stamp program.

(g) As used in this chapter, "person" includes any individual or entity described in IC 6-2.5-1-3.

(h) As used in this chapter, "point of sale terminal" means an electronic hardware device that is:

(1) used at a retailer's place of business where consumers pay for goods or services; and

(2) capable of:

(A) initiating a request for authorization of a purchase of tangible personal property;

(B) disbursing currency from an account;

(C) initiating a balance inquiry for an account; or

(D) distributing assistance through an EBT system as described in this chapter.

(i) As used in this chapter, "primary business" means more than fifty percent (50%) of the gross retail income (as defined in IC 6-2.5-1-5) attributable to the location or premises where the business is located.

(j) As used in this chapter, "retailer" means a person that, in the ordinary course of business:

(1) sells or transfers tangible personal property; or

(2) provides or performs services for compensation

to consumers.

(k) As used in this chapter, "Secretary" refers to the Secretary of the United States Department of Agriculture.

As added by P.L.15-1996, SEC.2. Amended by P.L.257-1997(ss), SEC.10.

IC 12-13-14-2

Power of division to implement EBT program for food stamp assistance; contract with vendors; rules

Sec. 2. The division may do the following:

(1) Under:

(A) 7 U.S.C. 2016(I); and

(B) 7 CFR 272, 274, 276, 277, and 278;

make an application for approval from the Secretary for implementation by the division of an EBT program in Indiana for food stamp assistance.

(2) If required at any time by federal law or regulation, make an application for approval from the Department for implementation by the division of an EBT program in Indiana for assistance under the Title IV-A assistance program as provided in 42 U.S.C. 601 et seq.

(3) After receiving approval from the Secretary and, if required, the Department, implement a fully functional and operating EBT program under this chapter to provide an alternative method of delivering:

(A) food stamp assistance; and

(B) assistance under the Title IV-A assistance program in Indiana.

(4) Contract with vendors for supplies and services to implement an EBT program according to IC 5-22-17.

(5) Adopt rules under IC 4-22-2 to implement the EBT program.

As added by P.L.15-1996, SEC.2. Amended by P.L.257-1997(ss), SEC.11; P.L.49-1997, SEC.44; P.L.2-1998, SEC.37.

IC 12-13-14-3

Electronic benefits transfer commission; members; terms; vacancies; chairperson; no reimbursement for expenses

Sec. 3. (a) The electronic benefits transfer commission is established.

(b) The commission consists of eight (8) members appointed by the secretary of family and social services as follows:

(1) Two (2) employees of the office of the secretary of family and social services.

(2) Two (2) members of the Indiana Grocers and Convenience Store Association, nominated by the chief executive officer of the Indiana Grocers and Convenience Store Association for consideration by the secretary of family and social services.

(3) Two (2) members of the Indiana Bankers Association, nominated by the chief executive officer of the Indiana Bankers Association for consideration by the office of the secretary of

family and social services.

(4) Two (2) persons representing recipients of food stamp benefits or Aid to Families with Dependent Children (AFDC) benefits. One (1) person shall be nominated by the Indiana Food and Nutrition Network, and one (1) person shall be nominated by the Indiana Coalition for Human Services for consideration by the secretary of family and social services.

(c) The terms of office shall be for three (3) years. The members serve at the will of the secretary of family and social services. A vacancy on the commission shall be filled by the secretary of family and social services in the same manner the original appointment was made.

(d) The secretary of family and social services shall appoint the initial chairperson from among the members of the commission. The commission shall meet on the call of the chairperson. When the chairperson's term expires, the commission shall elect a new chairperson from among the membership of the commission.

(e) The division shall provide staff needed for the commission to operate under this chapter.

(f) The commission members are not eligible for per diem reimbursement or reimbursement for expenses incurred for travel to and from commission meetings.

As added by P.L.15-1996, SEC.2. Amended by P.L.1-2009, SEC.101.

IC 12-13-14-4

Recommendations of commission to division on implementation of statewide EBT program

Sec. 4. The commission shall make recommendations to the division and advise the division on the following issues:

(1) Implementing a fully functional and operating EBT program statewide.

(2) How Indiana's EBT program implemented under this chapter can be administered in accordance with:

(A) federal requirements under 7 U.S.C. 2016(i); and

(B) federal regulations under 7 CFR 272, 274, 276, 277, and 278.

(3) Whether to implement the National Automated Clearing House Association guidelines to the extent that the guidelines are not inconsistent with federal law.

(4) Whether to implement the federal electronic funds transfer rules.

(5) Whether the division should seek a waiver from the Secretary that would allow retailers to identify check-out lanes that are equipped to handle EBT transactions.

(6) Providing retailer and recipient training.

(7) Creating an EBT program in Indiana that is compatible with EBT programs in other states to the extent possible.

(8) Rules necessary to provide adequate financial safeguards and other protections for recipients.

(9) Any other issues concerning the establishment and operation

of an EBT program.

As added by P.L.15-1996, SEC.2. Amended by P.L.257-1997(ss), SEC.12.

IC 12-13-14-4.5

Distribution of cash assistance through automated teller machines or point of sale terminals; exclusions; disabled access in prohibited locations; penalties; rules

Sec. 4.5. (a) Except as provided in this section, the division may distribute cash assistance benefits to a person who is eligible for assistance under the Title IV-A assistance program though an automated teller machine or a point of sale terminal that is connected to the EBT system.

(b) The following establishments shall post a sign next to each automated teller machine or point of sale terminal located on the premises informing a potential user that the automated teller machine or point of sale terminal may not be used to receive cash assistance benefits under the Title IV-A assistance program:

(1) A horse racing establishment:

(A) where the pari-mutuel system of wagering is authorized; and

(B) for which a permit is required under IC 4-31-5.

(2) A satellite facility:

(A) where wagering on horse racing is conducted; and

(B) for which a license is required under IC 4-31-5.5.

(3) An allowable event required to be licensed by the Indiana gaming commission under IC 4-32.2.

(4) A riverboat or other facility required to be licensed by the Indiana gaming commission under IC 4-33.

(5) A store or other establishment:

(A) where the primary business is the sale of firearms (as defined in IC 35-47-1-5); and

(B) that sells handguns for which a license to sell handguns is required under IC 35-47-2.

(6) A store or other establishment where the primary business is the sale of alcoholic beverages for which a permit is required under IC 7.1-3.

(7) An adult entertainment establishment.

(c) An:

(1) establishment that does not post the sign required under subsection (b); or

(2) individual who attempts to use an automated teller machine or point of sale terminal with a sign posted as required under subsection (b) to access cash assistance benefits under the Title IV-A assistance program in violation of subsection (b);

commits a Class C misdemeanor.

(d) The owner, vendor, or third party processor of an automated teller machine or point of sale terminal shall disable or have disabled access to electronic cash assistance benefits in a location described in subsection (b) unless the location has been approved by the federal

Food and Nutrition Services. The division shall provide assistance to an owner, vendor, or third party processor under this subsection. A person that violates this subsection commits a Class B infraction.

(e) The division shall adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.257-1997(ss), SEC.13. Amended by P.L.91-2006, SEC.10; P.L.3-2012, SEC.2; P.L.197-2013, SEC.6.

IC 12-13-14-5

Retailer participation

Sec. 5. A retailer participating in the EBT program in Indiana is not required to make cash disbursements or purchase equipment.

As added by P.L.15-1996, SEC.2.

IC 12-13-14-6

Equal treatment of retailers

Sec. 6. Retailers within a defined market area shall be treated equally.

As added by P.L.15-1996, SEC.2.

IC 12-13-14-7

Retailer liability for fraudulent EBT transaction

Sec. 7. A retailer participating in the EBT program may not be held liable for a loss incurred due to a fraudulent EBT transaction provided the retailer did not participate in the fraud.

As added by P.L.15-1996, SEC.2.

IC 12-13-14-8

Payment to retailer by contractor; penalty payments; system failure

Sec. 8. (a) An approved transaction must be paid to the retailer not later than the end of the second business day in which a financial institution is open for business to the public following the approval of the transaction.

(b) Failure by the contractor to pay the retailer in accordance with subsection (a) will result in penalty payments being paid by the contractor to the retailer.

(c) If there is a system failure, off-line transactions will be authorized and guaranteed up to an amount to be determined by the division. The retailer must comply with the division's rules for off-line transactions.

As added by P.L.15-1996, SEC.2.

IC 12-13-14-9

Retailer and recipient training; credit

Sec. 9. The division shall provide retailer and recipient training statewide. A retailer who uses its own equipment for training shall receive a training credit to offset the retailer's cost.

As added by P.L.15-1996, SEC.2.

IC 12-13-14-10
Retailer not considered contractor

Sec. 10. A retailer participating in the EBT program in Indiana may not be considered as a contractor for supplying services or supplies in connection with Indiana's EBT program.
As added by P.L.15-1996, SEC.2.

IC 12-13-14-11
Required components of EBT program

Sec. 11. The Indiana EBT program must be designed:
(1) for recipient portability; and
(2) to ensure compatibility with other states;
to the extent possible.
As added by P.L.15-1996, SEC.2.

IC 12-13-14-12
Retailer fees for processing transactions; review of fees

Sec. 12. The division shall negotiate a fee structure with the Indiana Grocers and Convenience Store Association for retailers in exchange for processing the division's EBT transactions. Retailer agreements entered into between the state and retailers shall consider appropriate fees that are consistent with existing market practices, and consider costs incurred by the participating retailers for capital expenditures and ongoing operating expenditures. The division shall review and adjust the fee if necessary or appropriate.
As added by P.L.15-1996, SEC.2. Amended by P.L.257-1997(ss), SEC.14.

IC 12-13-14-13
Farmer's market point of sale terminals

Sec. 13. The division shall implement a program that provides a farmers' market administrator or a retailer who sells food at a farmers' market with a wired or wireless point of sale terminal that is connected to the EBT system.
As added by P.L.96-2009, SEC.1. Amended by P.L.13-2013, SEC.45.

IC 12-13-14-14
Investigation of fraud by state excise police

Sec. 14. The state excise police may investigate allegations of fraud within the EBT program, including investigations of the following persons:
(1) Applicants.
(2) Recipients.
(3) Retailers that participate in the EBT program.
(4) Individuals who sell or purchase access to cash assistance benefits in violation of any federal or state law or regulation.
As added by P.L.197-2013, SEC.7.

IC 12-13-14-15
Replacement of EBT cards; procedure

Sec. 15. (a) As used in this section, "EBT card" has the meaning set forth in 470 IAC 6-0.5-1.

(b) The replacement process established under this section applies until federal rules are adopted establishing a replacement EBT card process that supersedes or nullifies the process established by the division.

(c) The division shall establish a process for a recipient to follow in order to receive a replacement EBT card. The process must include contact with the division for replacement if the individual requesting replacement of the EBT card has previously requested a replacement EBT card at least four (4) times in the preceding twelve (12) month period.

(d) The division may hold replacement of an EBT card if the recipient seeking replacement of the EBT card does not follow the procedure established by the division under subsection (b).

As added by P.L.197-2013, SEC.8.

IC 12-13-14.5
Repealed

(Repealed by P.L.234-2005, SEC.192.)

IC 12-13-15
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-13-15.1
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-13-15.2

Chapter 15.2. Dental Care Information for Indiana Children

IC 12-13-15.2-1

Providing lists of dentists

Sec. 1. The division of family resources shall provide to the following entities in the county a list of dentists practicing in the county who provide dental services under the Medicaid program (IC 12-15) or the children's health insurance program (IC 12-17.6):

(1) Head Start programs (42 U.S.C. 9831 et seq.).

(2) Women, infants, and children nutrition programs (as defined in IC 16-35-1.5-5).

(3) Maternal and child health clinics (as defined in IC 16-46-5-5).

(4) The local health department.

(5) School nurses appointed under IC 20-34-3-6.

(6) Child care centers licensed under IC 12-17.2-4.

(7) The township trustees.

As added by P.L.169-2001, SEC.1. Amended by P.L.1-2005, SEC.129; P.L.128-2012, SEC.9.

IC 12-13-15.2-2

Collaboration in establishing programs

Sec. 2. The division shall collaborate with the office of Medicaid policy and planning established by IC 12-8-6.5-1 and the state department of health established by IC 16-19-1-1 to establish programs that facilitate children's access to oral health services.

As added by P.L.169-2001, SEC.1. Amended by P.L.160-2012, SEC.35.

IC 12-14

ARTICLE 14. FAMILY ASSISTANCE SERVICES

IC 12-14-1

Chapter 1. Temporary Assistance for Needy Families; Eligibility and Application for Assistance

IC 12-14-1-1

Eligibility

Sec. 1. (a) Assistance under TANF shall be given to a dependent child who otherwise qualifies for assistance if the child is living in a family home of a person who is:

(1) at least eighteen (18) years of age; and

(2) the child's relative, including:

(A) the child's mother, father, stepmother, stepfather, grandmother, or grandfather; or

(B) a relative not listed in clause (A) who has custody of the child.

(b) A parent or relative and a dependent child of the parent or relative are not eligible for TANF assistance when the physical custody of the dependent child was obtained for the purpose of establishing TANF eligibility.

(c) Except as provided in IC 12-14-28-3.3, a person convicted of a felony under IC 35-43-5-7 or IC 35-48-4 is not eligible to receive assistance under TANF for ten (10) years after the conviction.

(d) The assistance paid to a dependent child under this section may not be affected by the conviction of a parent or an essential person of the dependent child under subsection (c).

As added by P.L.2-1992, SEC.8. Amended by P.L.46-1995, SEC.9; P.L.161-2007, SEC.12.

IC 12-14-1-1.5

Qualifications for eligible dependent child to receive assistance

Sec. 1.5. (a) This section does not apply if the:

(1) dependent child does not have a living parent or legal guardian;

(2) whereabouts of the dependent child's parent or legal guardian are unknown;

(3) dependent child lived apart from the child's parent or legal guardian for a period of at least one (1) year before either:

(A) the birth of the dependent child's child; or

(B) the dependent child's application for TANF;

(4) dependent child provides proof, and the division agrees, that the physical health or safety of the dependent child or a child of the dependent child would be jeopardized if the dependent child or a child of the dependent child resides with the dependent child's parent, legal guardian, or adult relative; or

(5) dependent child is less than eighteen (18) years of age and is not married, but the dependent child or a child of the dependent child:

(A) has been alleged or adjudicated a child in need of services under IC 31-34 (or IC 31-6 before its repeal); or
(B) has been placed under the wardship or guardianship of the department of child services.

(b) Except as provided in subsection (d), a dependent child who is less than eighteen (18) years of age and is:
(1) not married; or
(2) married but not residing with or receiving support from a spouse;
is entitled to assistance under TANF only if the dependent child and any children of the dependent child reside with a parent, a legal guardian, or an adult relative other than a parent or legal guardian of the dependent child. A legal guardian or an adult relative not listed in section 1(a)(2)(A) of this chapter must have custody of the child under a court order.

(c) The assistance for an eligible dependent child and each child of an eligible dependent child as described in subsection (b) shall be provided to the dependent child's parent, legal guardian, or other adult relative based on the eligibility of the parent, legal guardian, or other adult relative to receive assistance under TANF.

(d) This subsection applies to the parent of:
(1) a dependent child who has never married and who:
(A) has a child; or
(B) is pregnant; and
(2) a dependent child who has never married and is adjudicated to be the father of a child.
The parent of a dependent child described in subdivision (1) or (2) is financially responsible for the care of a child of the dependent child until the dependent child becomes eighteen (18) years of age.

As added by P.L.46-1995, SEC.10. Amended by P.L.1-1997, SEC.56; P.L.161-2007, SEC.13; P.L.128-2012, SEC.10.

IC 12-14-1-2
Application; residence of child

Sec. 2. An application for a dependent child under this article must be made to the county office of the county where the dependent child resides.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.64; P.L.5-1993, SEC.77.

IC 12-14-1-3
Application; form; oath; required information; notice of assignment of rights

Sec. 3. An application must meet the following conditions:
(1) Be in writing.
(2) Be made in the manner and upon the form required by the division.
(3) Be made and verified by the oath of the parent or guardian of the dependent child or another person standing in loco parentis to the dependent child.

(4) Contain the age and residence of the child and any information required by rules adopted under IC 4-22-2 by the director of the division.
(5) Contain a notice that, if the application is approved and assistance is granted, the applicant's signature on the application assigns the applicant's right to:
(A) accrued;
(B) present; and
(C) pending;
support payments to the agency of the state responsible for administering Title IV-D of the federal Social Security Act.
As added by P.L.2-1992, SEC.8.

IC 12-14-1-4
Single application made for more than one child
Sec. 4. One (1) application may be made for more than one (1) child of the same family if the children reside with the same person.
As added by P.L.2-1992, SEC.8.

IC 12-14-1-5
Signature as assignment for purposes of IC 12-14-7
Sec. 5. An applicant's signature on an approved application is an assignment for purposes of IC 12-14-7.
As added by P.L.2-1992, SEC.8.

IC 12-14-1-6
Investigations
Sec. 6. (a) Whenever the county office receives:
(1) notification of the dependency of a child; or
(2) an application for assistance;
an investigation and record shall promptly be made of the circumstances of the child to determine the dependency of the child, the facts supporting the application made under this article, and other information required by rules adopted under IC 4-22-2 by the director of the division.
(b) The investigation may include a visit to the home of the child and the person who will have the custody of the child during the time assistance is granted.
As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.65; P.L.5-1993, SEC.78.

IC 12-14-1-7
Confidentiality of TANF records; TANF information that may be disclosed by the division
Sec. 7. (a) A record that identifies an individual who has applied for, or is receiving, cash assistance or supportive services under the TANF program:
(1) is confidential; and
(2) is exempt from the disclosure requirements of IC 5-14-3-3.
(b) The division may use or disclose information concerning a

TANF applicant or recipient only for purposes directly connected to the following:

(1) The administration, including establishing eligibility, determining the amount of assistance, and providing services for applicants and recipients, of a state plan or program approved under:

(A) Title I;
(B) Title IV-A;
(C) Title IV-B;
(D) Title IV-D;
(E) Title IV-E;
(F) Title X;
(G) Title XIV;
(H) Title XV;
(I) Title XVI;
(J) Title XIX;
(K) Title XX; or
(L) Title XXI;

of the federal Social Security Act.

(2) An investigation, a prosecution, or a civil or criminal proceeding conducted concerning the administration of the TANF program or a program described in subdivision (1).

(3) The administration of any federal, state, or township program that provides assistance or services to individuals on the basis of need.

(c) The division shall safeguard information, including the following:

(1) The name and address of an applicant or a recipient.

(2) Information concerning the economic and social conditions of an individual.

(3) The evaluation of information concerning an individual.

(4) Medical information.

As added by P.L.161-2007, SEC.14.

IC 12-14-1.5

Chapter 1.5. Voter Registration Services and TANF Applications

IC 12-14-1.5-1

Purpose of chapter

Sec. 1. This chapter prescribes the procedures to be followed by a county office in processing:

(1) voter registration applications; and

(2) records concerning an individual's declining to register to vote;

under 42 U.S.C. 1973gg-5(a)(2)(A) and IC 3-7-15.

As added by P.L.12-1995, SEC.117.

IC 12-14-1.5-1.5

Repealed

(Repealed by P.L.81-2005, SEC.35.)

IC 12-14-1.5-2

Designated individual

Sec. 2. A county director may designate an employee of the office as the individual responsible for performing the voter registration duties of the office under this chapter at that county office. The employee designated under this section shall supervise the registration of voters by other employees of the office and shall perform any other registration duty required to be performed by the office under this chapter. Notwithstanding this designation, any employee of the office may perform registration duties in accordance with this chapter.

As added by P.L.12-1995, SEC.117.

IC 12-14-1.5-3

County director responsible if no designated individual

Sec. 3. If a county director does not designate an employee under section 2 of this chapter, the director is the individual responsible for performing the voter registration duties of the office under this chapter at that county office. The county director shall supervise the registration of voters by office employees and shall perform any other registration duty required to be performed by the office under this chapter. Notwithstanding the designation of the county director under this section, any employee of the office may perform registration duties in accordance with this chapter.

As added by P.L.12-1995, SEC.117.

IC 12-14-1.5-4

Transmittal of voter registration application or declination forms

Sec. 4. (a) As required under 42 U.S.C. 1973gg-5(d)(1), the county director or designated office employee shall transmit a completed voter registration application:

(1) to the circuit court clerk or board of registration of the

county in which the individual's residential address (as indicated on the application) is located; and

(2) not later than five (5) days after the application is accepted at the office.

(b) The county director or designated employee shall transmit the voter registration application (or a separate declination form) on which the individual declined to register to vote by specifically declining to register or by failing to complete the voter registration portion of the application.

(c) The declination must be transmitted:

(1) to the circuit court clerk or board of registration of the county in which the individual's residential address (as indicated on the application) is located; and

(2) not later than five (5) days after the application is accepted at the office.

As added by P.L.12-1995, SEC.117. Amended by P.L.3-1995, SEC.144; P.L.258-2013, SEC.86.

IC 12-14-1.5-5
Repealed

(Repealed by P.L.3-1995, SEC.155.)

IC 12-14-1.5-6
Methods for transmittal of applications or declinations

Sec. 6. A county director or designated employee may use any of the following methods to transmit voter registration applications or declinations under section 4 of this chapter:

(1) Hand delivery to the circuit court clerk or board of registration.

(2) Delivery by the United States Postal Service, using first class mail.

As added by P.L.12-1995, SEC.117. Amended by P.L.258-2013, SEC.87.

IC 12-14-1.5-7
Hand delivery

Sec. 7. If a county director or designated employee transmits registration applications or declinations by hand delivery under section 6(1) of this chapter, the circuit court clerk or board of registration shall provide the director or employee with a receipt for the forms. The receipt must state the date and time of delivery, and the printed name and signature of the person who received the forms.
As added by P.L.12-1995, SEC.117.

IC 12-14-1.5-8
Information to be provided to division

Sec. 8. The election division shall provide the division with a list of the current address and telephone number of the county voter registration office in each county. The division shall promptly forward the list and each revision of the list to each county office.

As added by P.L.12-1995, SEC.117. Amended by P.L.2-1996, SEC.234; P.L.3-1997, SEC.430; P.L.219-2013, SEC.75.

IC 12-14-1.5-9
Confidentiality of information

Sec. 9. Voter registration information received or maintained under this chapter is confidential.

As added by P.L.12-1995, SEC.117.

IC 12-14-1.5-10
Notice regarding elections

Sec. 10. The co-directors of the election division shall notify each county director of the following:

(1) The scheduled date of each primary, general, municipal, and special election.

(2) The jurisdiction in which the election will be held.

As added by P.L.12-1995, SEC.117. Amended by P.L.2-1996, SEC.235; P.L.3-1997, SEC.431.

IC 12-14-1.5-11
Information to be provided to election division

Sec. 11. The division shall provide the co-directors of the election division with a list stating the following:

(1) The address and telephone number of each county office.

(2) The name of each county director and any employee designated by the director to be responsible for performing voter registration duties under this chapter.

As added by P.L.12-1995, SEC.117. Amended by P.L.2-1996, SEC.236; P.L.3-1997, SEC.432.

IC 12-14-2

Chapter 2. Temporary Assistance for Needy Families; Granting of Assistance

IC 12-14-2-0.5

"Essential person" defined

Sec. 0.5. As used in this chapter, "essential person" means a person other than a parent who:

(1) is the relative of a dependent child;

(2) cares for the dependent child; and

(3) complies with IC 12-14-1-1.

As added by P.L.46-1995, SEC.11.

IC 12-14-2-1

Determination of eligibility; amount of assistance and beginning date; money in individual development accounts may not be considered

Sec. 1. (a) After the investigation under IC 12-14-1-6, the county office shall decide the following:

(1) Whether the child is eligible for assistance under this article.

(2) The amount of assistance.

(3) The date assistance begins.

(b) The county office may not consider:

(1) money in an individual development account under IC 4-4-28 that belongs to the child or a member of the child's family;

(2) five thousand dollars ($5,000) of equity value (as defined in 470 IAC 10.1-3-1) in one (1) motor vehicle that belongs to a member of the child's family; or

(3) a Holocaust victim's settlement payment received by the child or a member of the child's family;

when determining whether the child is eligible for assistance under this article.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.66; P.L.5-1993, SEC.79; P.L.15-1997, SEC.3; P.L.126-1998, SEC.1; P.L.128-1999, SEC.9.

IC 12-14-2-2

Investigations made by division

Sec. 2. The division may make investigations as necessary and shall make a decision relative to the granting of assistance.

As added by P.L.2-1992, SEC.8.

IC 12-14-2-3

Amount of assistance; determination

Sec. 3. (a) Except as provided in subsection (b), when determining the amount of assistance, an accounting must be taken of any income or property of the child that the child may receive from another source.

(b) The following may not be considered as income or property of

the child when determining the amount of assistance for the child:

(1) Money in an individual development account established under IC 4-4-28 that belongs to a child or a member of the child's family.

(2) A Holocaust victim's settlement payment received by the child or a member of the child's family.

As added by P.L.2-1992, SEC.8. Amended by P.L.15-1997, SEC.4; P.L.128-1999, SEC.10.

IC 12-14-2-4

Amount of assistance; considerations

Sec. 4. The division shall determine the amount of assistance granted for a dependent child considering the following:

(1) The resources and necessary expenditures of the family.

(2) The conditions existing in each case and in accordance with the rules adopted under IC 4-22-2 by the director of the division.

However, a Holocaust victim's settlement payment received by the child or a member of the child's family may not be considered a resource of the family when determining the amount of assistance for the child.

As added by P.L.2-1992, SEC.8. Amended by P.L.128-1999, SEC.11.

IC 12-14-2-5

Amount of need recognized and payment made; maximum amounts

Sec. 5. Except as provided in sections 5.1 and 5.3 of this chapter, the following apply to the amount of need recognized and payment made under this chapter:

(1) The total amount of need recognized and payment made for a dependent child, other than for medical expenses, for a calendar month may not exceed one hundred fifty-five dollars ($155).

(2) The total amount of need recognized and payment made to the person essential to the well-being of the dependent child, other than for medical expenses, for a calendar month may not exceed one hundred fifty-five dollars ($155).

(3) The total amount of need recognized and payment made to one (1) dependent child and to the person essential to the well-being of the dependent child, other than for medical expenses, for a calendar month may not exceed two hundred fifty-five dollars ($255).

(4) If there is more than one (1) dependent child in the same home, the total amount of need recognized and payment made, other than for medical expenses, for a calendar month may not exceed sixty-five dollars ($65) for each additional child and, if the second parent of the child is incapacitated and is living in the home, the amount of need recognized and payment made may not exceed sixty-five dollars ($65) for the benefit of the incapacitated parent.

As added by P.L.2-1992, SEC.8. Amended by P.L.46-1995, SEC.12.

IC 12-14-2-5.1
Time limitations on receipt of assistance; cash assistance minimum

Sec. 5.1. (a) Subject to section 5.2 of this chapter, a parent or an essential person may not receive payments if the person has received assistance under this article during the person's lifetime for twenty-four (24) months after June 30, 1995.

(b) A family receiving TANF under section 5 of this chapter remains eligible to receive TANF services, including access to the Title IV-D child support enforcement program and the IMPACT (JOBS) program, when the family's income is greater than the amount of need recognized under section 5 of this chapter, but the family's gross income is less than one hundred percent (100%) of the federal income poverty level.

(c) A recipient family shall receive a cash assistance benefit under the TANF program of at least ten dollars ($10) if:

(1) the family's income is greater than the amount of need recognized under section 5 of this chapter;

(2) the family's gross income is less than one hundred percent (100%) of the federal income poverty level; and

(3) a parent or essential person receiving assistance has employment earnings.

As added by P.L.46-1995, SEC.13. Amended by P.L.1-1997, SEC.57; P.L.161-2007, SEC.15; P.L.153-2011, SEC.14.

IC 12-14-2-5.2
Employment credit

Sec. 5.2. (a) A person may earn credit for one (1) month of TANF assistance for each six (6) consecutive months the person is employed full time. However, credit may not be earned for employment completed before the date the person first applies for assistance under this article.

(b) To qualify for credit under subsection (a), a person must supply the county office with proof of the periods during which the person was employed.

(c) A person may not retain credit for more than twenty-four (24) months of TANF assistance under this article at any time.

(d) Credit earned by one (1) member of an assistance group under this section applies to all members of the assistance group.

As added by P.L.46-1995, SEC.14. Amended by P.L.161-2007, SEC.16.

IC 12-14-2-5.3
Payments for child born more than ten months after family qualifies for assistance

Sec. 5.3. (a) This section does not apply to a dependent child:

(1) described in section 5.1(b)(3) or 5.1(b)(4) of this chapter;

(2) who is the firstborn of a child less than eighteen (18) years of age who is included in a TANF assistance group when the

child becomes a first time minor parent (including all children in the case of a multiple birth); or

(3) who was conceived in a month the family was not receiving TANF assistance.

(b) Except as provided in subsection (c), after July 1, 1995, an additional payment (other than for medical expenses payable under IC 12-15) may not be made for a dependent child who is born more than ten (10) months after the date the family qualifies for assistance under this article.

(c) The division may adopt rules under IC 4-22-2 that authorize a voucher for goods and services related to child care that do not exceed one-half (1/2) of the assistance that a dependent child described in subsection (b) would otherwise receive under section 5 of this chapter.

(d) A dependent child described in subsection (b) is eligible for all child support enforcement services provided in IC 31-25.

(e) Families receiving TANF assistance are encouraged to receive family planning counseling.

As added by P.L.46-1995, SEC.15. Amended by P.L.2-1997, SEC.36; P.L.145-2006, SEC.79; P.L.161-2007, SEC.17.

IC 12-14-2-5.4
Repealed

(Repealed by P.L.161-2007, SEC.40.)

IC 12-14-2-6
Need of child; age excluded as factor

Sec. 6. Age may not be a factor in determining the need of a child.

As added by P.L.2-1992, SEC.8.

IC 12-14-2-7
Repealed

(Repealed by P.L.161-2007, SEC.40.)

IC 12-14-2-8
Repealed

(Repealed by P.L.161-2007, SEC.40.)

IC 12-14-2-9
Application of percentage reduction to total needs in computing benefits payable

Sec. 9. The division shall apply a percentage reduction of ninety percent (90%) to the total needs of TANF applicants and recipients in computing the TANF benefits payable.

As added by P.L.2-1992, SEC.8. Amended by P.L.161-2007, SEC.18.

IC 12-14-2-10
Repealed

(Repealed by P.L.161-2007, SEC.40.)

IC 12-14-2-11
Compliance with awards

Sec. 11. The county office shall make an award that, including a subsequent modification, is binding and must be complied with by the county office until the award or modified award is vacated.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.68; P.L.5-1993, SEC.81.

IC 12-14-2-12
Notification of assistance decision

Sec. 12. The county office shall notify the applicant and the division of the county office's decision concerning assistance in writing.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.69; P.L.5-1993, SEC.82.

IC 12-14-2-13
Reporting of assistance decisions

Sec. 13. The county office shall immediately report to the division the decision for each application for assistance to a dependent child.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.70; P.L.5-1993, SEC.83.

IC 12-14-2-14
Repealed

(Repealed by P.L.273-1999, SEC.124.)

IC 12-14-2-15
Amount granted; justification; conformance with article

Sec. 15. The amount of the assistance granted must be justified and conform with this article.

As added by P.L.2-1992, SEC.8.

IC 12-14-2-16
Child living with relative prescribed in IC 12-7-2-58

Sec. 16. If an investigation discloses that a child is a dependent child and the child is living or will live with at least one (1) of the relatives prescribed in IC 12-7-2-58, assistance may be allowed for the support of the child without complying with an Indiana law other than this article.

As added by P.L.2-1992, SEC.8.

IC 12-14-2-17
Mandatory school attendance

Sec. 17. (a) To retain eligibility for TANF assistance under this article, a recipient of TANF assistance and a dependent child who is a recipient of TANF assistance must attend school if all of the following apply:

(1) The recipient or the dependent child meets the compulsory attendance requirements under IC 20-33-2.

(2) The recipient or the dependent child has not graduated from a high school or has not obtained a high school equivalency certificate (as defined in IC 12-14-5-2).

(3) The recipient or the dependent child is not excused from attending school under IC 20-33-2-14 through IC 20-33-2-17.

(4) The recipient or the dependent child does not have good cause for failing to attend school, as determined by rules adopted by the director under IC 4-22-2.

(5) If the recipient or the dependent child is the mother of a child, a physician has not determined that the recipient or the dependent child should delay returning to school after giving birth.

(b) A recipient or the dependent child of a recipient described in subsection (a) who has more than three (3) unexcused absences during a school year is subject to revocation or suspension of assistance as provided in section 18 of this chapter.

(c) The director, in consultation with the department of education, shall adopt rules under IC 4-22-2 to establish a definition for the term "unexcused absence".

As added by P.L.46-1995, SEC.17. Amended by P.L.1-2005, SEC.130; P.L.161-2007, SEC.19.

IC 12-14-2-18

Revocation or suspension of assistance; sanctions

Sec. 18. (a) A recipient or dependent child who fails to meet the requirements of section 17 of this chapter is subject to the revocation or suspension of assistance as provided under rules adopted by the division.

(b) A TANF recipient or applicant who refuses to participate in an employment opportunity or a job training opportunity offered to the recipient or applicant under IC 12-8-12 is subject to sanctions established by the director under IC 12-8-12-6(2).

(c) Except in a case in which the parent, custodian, or guardian of the dependent child qualifies for a good cause or other exception provided by statute or administrative rule, a parent, custodian, or guardian who refuses to cooperate with the Title IV-D agency as required by IC 12-14-7-2, IC 12-14-7-3, or IC 12-14-2-24 in:

(1) a paternity action; or

(2) the establishment or enforcement of a child support order;

is subject to sanctions or revocation or suspension of assistance as provided under rules adopted by the division.

(d) The division may adopt rules under IC 4-22-2 to implement subsection (c).

As added by P.L.46-1995, SEC.18. Amended by P.L.2-1997, SEC.37; P.L.161-2007, SEC.20; P.L.80-2010, SEC.16.

IC 12-14-2-19

Release of school attendance records

Sec. 19. The division may require consent to the release of school attendance records as a condition of eligibility to receive assistance

under this chapter.
As added by P.L.46-1995, SEC.19.

IC 12-14-2-20
Voluntary leave of employment or reduction in hours

Sec. 20. (a) This section does not apply to a person who voluntarily leaves an employer for any of the following reasons:

(1) The person accepted previously secured permanent full-time work with another employer that offered reasonable expectation of higher wages or better working conditions.

(2) The person left the employer due to a medically substantiated physical disability and is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship.

(3) The person left work to enter the armed forces of the United States.

(4) The person's employment was terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement.

(5) The person voluntarily left the employer, and:

(A) the person's previous employment was outside the person's labor market;

(B) the person left to accept previously secured full-time work with an employer in the person's labor market; and

(C) the person actually became employed with the employer in the person's labor market within the area surrounding the person's permanent residence, outside which the person cannot reasonably commute on a daily basis. In determining whether a person can reasonably commute under this clause, the division shall consider the nature of the person's job.

(6) The person was laid off by the employer.

(b) A person who applies for TANF assistance under this article and:

(1) voluntarily leaves the person's most recent employer:

(A) within six (6) months before applying for TANF; or

(B) at any time after becoming a recipient of TANF under this chapter; or

(2) voluntarily reduces the number of hours the person works in order to qualify for or retain eligibility for assistance under this article;

is ineligible to receive assistance under IC 12-14 for six (6) months after leaving the person's employer or reducing the person's hours.
As added by P.L.46-1995, SEC.20. Amended by P.L.161-2007, SEC.21.

IC 12-14-2-21
Personal responsibility agreement

Sec. 21. (a) A TANF recipient or the parent or essential person of

a TANF recipient, if the TANF recipient is less than eighteen (18) years of age, must sign a personal responsibility agreement to do the following:

(1) Develop an individual self-sufficiency plan with other family members and a caseworker.

(2) Accept any reasonable employment as soon as it becomes available.

(3) Agree to a loss of assistance, including TANF assistance under this article, if convicted of a felony under IC 35-43-5-7 or IC 35-43-5-7.1 for ten (10) years after the conviction.

(4) Subject to section 5.3 of this chapter, understand that additional TANF assistance under this article will not be available for a child born more than ten (10) months after the person qualifies for assistance.

(5) Accept responsibility for ensuring that each child of the person receives all appropriate vaccinations against disease at an appropriate age.

(6) If the person is less than eighteen (18) years of age and is a parent, live with the person's parents, legal guardian, or an adult relative other than a parent or legal guardian in order to receive public assistance.

(7) Subject to IC 12-8-1.5-11 and section 5.1 of this chapter, agree to accept assistance for not more than twenty-four (24) months under the TANF program (IC 12-14).

(8) Be available for and actively seek and maintain employment.

(9) Participate in any training program required by the division.

(10) Accept responsibility for ensuring that the person and each child of the person attend school until the person and each child of the person graduate from high school or attain a high school equivalency certificate (as defined in IC 12-14-5-2).

(11) Raise the person's children in a safe, secure home.

(12) Agree not to abuse illegal drugs or other substances that would interfere with the person's ability to attain self-sufficiency.

(b) Except as provided in subsection (c), assistance under the TANF program shall be withheld or denied to a person who does not fulfill the requirements of the personal responsibility agreement under subsection (a).

(c) A person who is granted an exemption under section 23 of this chapter may be excused from specific provisions of the personal responsibility agreement as determined by the director.

As added by P.L.46-1995, SEC.21. Amended by P.L.161-2007, SEC.22; P.L.160-2012, SEC.36.

IC 12-14-2-22
Repealed

(Repealed by P.L.161-2007, SEC.40.)

IC 12-14-2-23
Exemptions

Sec. 23. (a) This section applies only to a person's eligibility for assistance under section 5.1 of this chapter.

(b) As used in this section, "school" means a program resulting in high school graduation.

(c) Due to extraordinary circumstances, a person who is the parent of a dependent child, an essential person, or a dependent child may apply, in a manner prescribed by the division, for an exemption from the requirements of this chapter if the person can document that the person has complied with the personal responsibility agreement under section 21 of this chapter and the person demonstrates any of the following:

(1) The person has a substantial physical or mental disability that prevents the person from obtaining or participating in gainful employment.

(2) The person is a minor parent who is in school full time and who has a dependent child.

(3) The person is a minor parent who is enrolled full time in an educational program culminating in a high school equivalency certificate and who has a dependent child.

A person seeking an exemption under this section must show documentation to the division to substantiate the person's claim for an exemption under subdivision (1), (2), or (3).

(d) After receiving an application for exemption from a parent, an essential person, or a dependent child under subsection (c), the division shall investigate and determine if the parent, essential person, or dependent child qualifies for an exemption from this chapter. The director shall make a final determination regarding:

(1) whether to grant an exemption;

(2) the length of an exemption, if granted, subject to subsection (f); and

(3) the extent of an exemption, if granted.

(e) If the director determines that a parent, an essential person, or a dependent child qualifies for an exemption under this chapter, the parent, essential person, or dependent child is entitled to receive one hundred percent (100%) of the payments that the parent, essential person, or dependent child is entitled to receive under section 5 of this chapter, subject to any ratable reduction.

(f) An exemption granted under this section may not exceed one (1) year, but may be renewed.

(g) The division shall send a report each quarter to the legislative council and the budget committee detailing the number and type of exemptions granted under this section. A report sent under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(h) The division may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.46-1995, SEC.23. Amended by P.L.28-2004, SEC.101.

IC 12-14-2-24

Establishing paternity required; exceptions; revocation; good faith effort to cooperate required; presumption of good faith effort; other considerations

Sec. 24. (a) A dependent child and a parent or an essential person are not eligible for TANF assistance under this chapter unless the mother of the dependent child:

(1) initiates a court proceeding to establish paternity, other than an adoption proceeding, except as provided in IC 31-14-20-2;

(2) executes a paternity affidavit under IC 16-37-2-2.1; or

(3) requests, at the time of application or renewal, that the Title IV-D agency or its agents file a paternity action under IC 31-14-4-3.

(b) A person applying for assistance under this chapter is not required to comply with subsection (a) if:

(1) the father of the dependent child has been charged with an act of rape, incest, or child molesting that occurred against the dependent child's mother within ten (10) months before the birth of the dependent child;

(2) the mother of the dependent child is deceased;

(3) the division determines under rules adopted by the division under IC 4-22-2 that the mother of the dependent child could not know the identity of the child's father;

(4) the mother of the dependent child provides proof, and the division agrees, that the physical health or safety of the mother or the dependent child would be jeopardized if the mother complies with subsection (a); or

(5) the dependent child is living in the family home of a relative other than the mother of the child as described under IC 12-14-1-1(a) and the relative provides proof, and the division agrees, that the physical health or safety of the mother, relative, or dependent child would be jeopardized if the relative complies with subsection (a).

(c) If a dependent child's mother is a party to a paternity action filed under IC 31-14 (or IC 31-6-6.1 before its repeal), a county office shall revoke assistance under this chapter if the mother fails to pursue the paternity action.

(d) The office may not delay payments otherwise owing to a provider if the mother fails to comply with this section.

(e) Except as provided in subsection (b)(1), (b)(3), and (b)(5), if a child is residing with a nonparent guardian or custodian, the nonparent guardian or custodian shall make a good faith effort to cooperate with a prosecuting attorney or the division by providing to the prosecuting attorney or the division any information regarding the potential paternity of the child.

(f) The nonparent custodian or guardian is presumed to make a good faith effort under subsection (e) if the nonparent custodian or guardian does one (1) or more of the following:

(1) Responds to telephone calls from a prosecuting attorney or correspondence from a prosecuting attorney.

(2) Appears for an appointment, in person or by telephone, with

a prosecuting attorney.

(3) Appears at a court hearing when requested by a prosecuting attorney.

(4) Does one (1) or more of the following:

(A) Provides information described in IC 12-7-2-43.5(b), to the extent the information is known.

(B) Affirms that the information described in IC 12-7-2-43.5(b) is not known.

(g) Before making a determination that the nonparent custodian or guardian is not making a good faith effort to cooperate, the prosecuting attorney shall consider one (1) or more of the following:

(1) Whether the nonparent custodian or guardian could reasonably be expected to provide the information.

(2) The age of the child for whom child support is being sought.

(3) The circumstances surrounding the conception of the child.

(4) The age and mental capacity of the nonparent custodian or guardian.

(5) The time that has expired since the nonparent custodian or guardian has last had contact with:

(A) the alleged father of the child;

(B) a parent of the child; or

(C) a relative of the persons listed in clause (A) or (B).

(6) Any credible information that demonstrates an inability to provide correct information about an alleged father or a parent of the child because of deception by the alleged father or parent.

(7) Any other credible information obtained by the prosecuting attorney that demonstrates the nonparent custodian or guardian has knowledge of the information sought by the prosecuting attorney.

As added by P.L.46-1995, SEC.24. Amended by P.L.1-1997, SEC.58; P.L.161-2007, SEC.23; P.L.80-2010, SEC.17.

IC 12-14-2-25

Information on receipt of previous assistance

Sec. 25. (a) When a person applies for assistance under this chapter, the county office shall determine whether the person has received assistance under the TANF program from another state within the past three (3) years.

(b) The county office shall require each applicant to provide proof of all addresses used by the applicant and each member of the applicant's immediate family during the three (3) years before completing the application.

(c) The county office shall contact the agency administering TANF in any state where the applicant alleges to have lived within the past three (3) years to determine if the applicant has received assistance under the TANF program in that state.

(d) Each month of assistance the applicant has received under the TANF program from another state within the past three (3) years counts as one (1) month against the person's lifetime eligibility for assistance in Indiana as determined under section 5.1 of this chapter.

(e) Each county office shall provide information to another state regarding assistance provided to a person in Indiana if the other state has, or is willing to provide, similar information as needed to the county office.

As added by P.L.46-1995, SEC.25. Amended by P.L.161-2007, SEC.24.

IC 12-14-2-26

Registration at employment and training office

Sec. 26. (a) To be eligible for assistance under this article, a parent or an essential person must register at the parent's or essential person's local employment and training office:

(1) when the person first applies for assistance; and

(2) each time the person reapplies for assistance.

(b) Assistance shall be denied to a person who does not comply with subsection (a).

As added by P.L.46-1995, SEC.26.

IC 12-14-2.5

Chapter 2.5. Eligibility of Qualified Aliens, Lawful Permanent Residents, and Illegal Aliens for TANF

IC 12-14-2.5-1

Qualified aliens

Sec. 1. A person who:

(1) is not a citizen of the United States;

(2) is a qualified alien, as defined in 8 U.S.C. 1641(b); and

(3) meets all other eligibility criteria under this chapter;

is eligible for the TANF program, subject to 8 U.S.C. 1612 and 8 U.S.C. 1613.

As added by P.L.46-1995, SEC.27. Amended by P.L.161-2007, SEC.25.

IC 12-14-2.5-2

Repealed

(Repealed by P.L.161-2007, SEC.40.)

IC 12-14-2.5-3

Illegal aliens

Sec. 3. A person who is in the United States without permission of the United States Citizenship and Immigration Services is not entitled to receive any assistance under this article.

As added by P.L.46-1995, SEC.27. Amended by P.L.1-2007, SEC.120; P.L.161-2007, SEC.26.

IC 12-14-2.5-4

Child born in the United States

Sec. 4. A child who:

(1) is born in the United States to a person described in section 1 or 3 of this chapter; and

(2) otherwise meets the requirements for eligibility under this article;

is eligible to receive assistance under this article.

As added by P.L.46-1995, SEC.27. Amended by P.L.161-2007, SEC.27.

IC 12-14-2.5-5

Violation of federal law

Sec. 5. Any provision of this chapter that violates a federal law or federal regulation is void.

As added by P.L.46-1995, SEC.27.

IC 12-14-3

Chapter 3. Temporary Assistance for Needy Families; Certificates

IC 12-14-3-1

Designation of information

Sec. 1. When assistance is granted to a dependent child under IC 12-14-1 through IC 12-14-9.5, the award made must be entered on a written notice prescribed by the division that designates the following:

(1) The name and residence of the recipient.

(2) The amount of the award.

(3) The date when the assistance is to begin.

(4) Any other fact required by the division.

As added by P.L.2-1992, SEC.8. Amended by P.L.273-1999, SEC.81; P.L.161-2007, SEC.28.

IC 12-14-3-2

Repealed

(Repealed by P.L.161-2007, SEC.40.)

IC 12-14-3-3

Repealed

(Repealed by P.L.161-2007, SEC.40.)

IC 12-14-3-4

Repealed

(Repealed by P.L.161-2007, SEC.40.)

IC 12-14-4
Repealed

(Repealed by P.L.161-2007, SEC.40.)

IC 12-14-5

Chapter 5. Temporary Assistance for Needy Families; Education and Employment Training

IC 12-14-5-1

Application

Sec. 1. Sections 1 through 5 of this chapter apply to an individual who is:

(1) less than eighteen (18) years of age and not enrolled in an educational or a vocational training program; or

(2) a parent of a dependent child who has not graduated from high school or earned a:

(A) high school equivalency certificate; or

(B) state of Indiana general educational development (GED) diploma;

and is a member of a family that receives TANF.

As added by P.L.2-1992, SEC.8. Amended by P.L.149-1995, SEC.3; P.L.161-2007, SEC.29.

IC 12-14-5-2

"State of Indiana general educational development (GED) diploma"

Sec. 2. As used in this chapter, "state of Indiana general educational development (GED) diploma" means the state credential issued to a qualified applicant under IC 20-20-6 (before its repeal) or IC 22-4.1-18.

As added by P.L.2-1992, SEC.8. Amended by P.L.149-1995, SEC.4; P.L.1-2005, SEC.131; P.L.7-2011, SEC.2.

IC 12-14-5-3

Cooperation in developing educational and vocational training services and facilities

Sec. 3. The division, the department of education, and the public schools shall cooperate as follows:

(1) With all public and private educational and vocational training or retraining agencies or facilities operating in Indiana.

(2) In developing necessary education and vocational training or retraining services and facilities to improve the skills of the parents in families receiving assistance and services under this article, for whom jobs are not immediately available, or that will provide education, training, and experience for parents and for children nearing adulthood who lack the skills required for employment opportunities that are or may become available.

As added by P.L.2-1992, SEC.8.

IC 12-14-5-4

Continuation of family assistance grant; educational program participation; vocational training or retraining; additional payments

Sec. 4. (a) The division shall require parents for whom education

or training is suitable and available to do the following for the continuation of the family assistance grant:

(1) Participate in an educational program designed to enhance opportunities for employment.

(2) Attend a vocational training or retraining facility.

(b) Additional money may be made available and payments made for vocational training and other expenses to persons furnishing the vocational training or the person receiving the training.

As added by P.L.2-1992, SEC.8.

IC 12-14-5-5

Division plan for vocational and educational training in each county

Sec. 5. The division shall adopt a plan for furnishing in each county:

(1) vocational training; and

(2) educational training;

that allows an individual described in section 1 of this chapter to develop the skills to obtain a state of Indiana general educational development (GED) diploma.

As added by P.L.2-1992, SEC.8. Amended by P.L.149-1995, SEC.5.

IC 12-14-5-6

Payment for training and other expenses; source of funds; maximum monthly amounts under IC 12-14-2

Sec. 6. Payment for training and other expenses must be made by the division from money appropriated for the training and other services even though expenditures may exceed the maximum established under IC 12-14-2.

As added by P.L.2-1992, SEC.8.

IC 12-14-5-7

State or federal higher education awards; determination of income and resources when applying for assistance

Sec. 7. Except as provided by federal law, if an individual receives a state or federal higher education award that is paid directly to an approved postsecondary educational institution for the individual's benefit:

(1) the individual is not required to report the award as income or as a resource of the individual when applying for assistance for a dependent child under this chapter; and

(2) the award may not be considered as income or a resource of the individual in determining initial or continuing eligibility for assistance for a dependent child under this chapter.

As added by P.L.2-1992, SEC.8. Amended by P.L.2-2007, SEC.159.

IC 12-14-5.5

Chapter 5.5. Temporary Assistance for Needy Families; Performing Public Service

IC 12-14-5.5-1

Implementation of program

Sec. 1. The division shall implement a program to require a person receiving assistance under the TANF program and who is:

(1) at least eighteen (18) years of age; or

(2) less than eighteen (18) years of age and the parent of a dependent child;

to engage in public service in exchange for assistance under these programs.

As added by P.L.46-1995, SEC.28. Amended by P.L.161-2007, SEC.30.

IC 12-14-5.5-2

Rules and exemptions

Sec. 2. (a) The division may adopt rules under IC 4-22-2 to establish criteria for determining:

(1) the persons required to engage in public service; and

(2) the public and private agencies eligible for the placement of persons engaged in public service.

(b) Rules adopted under this section may provide an exemption for:

(1) a person with a substantial physical or mental disability that prevents the person from obtaining or participating in gainful employment;

(2) a person engaged in full time work; and

(3) a person engaged full time in an education program or a training program approved by the division.

As added by P.L.46-1995, SEC.28.

IC 12-14-5.5-3

Agency list

Sec. 3. The division shall maintain a list of public and private agencies eligible for placement of a person engaged in public service under this chapter.

As added by P.L.46-1995, SEC.28.

IC 12-14-5.5-4

Maximum work hours

Sec. 4. The maximum number of hours a person is required to work under this chapter is equal to the number of hours multiplied by the minimum wage that is equivalent to the value of all assistance received. However, a person may not be required to work more than forty (40) hours per week.

As added by P.L.46-1995, SEC.28.

IC 12-14-5.5-5

Refusal to perform public service

Sec. 5. A person required to engage in public service under this chapter who refuses to engage in public service is not entitled to receive assistance under the TANF program.

As added by P.L.46-1995, SEC.28. Amended by P.L.161-2007, SEC.31.

IC 12-14-6

Chapter 6. Temporary Assistance for Needy Families; Funeral and Cemetery Expenses

IC 12-14-6-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 3 and 4 of this chapter by P.L.118-1997 do not apply to an individual whose death occurs before July 1, 1997.

As added by P.L.220-2011, SEC.260.

IC 12-14-6-1

Funeral director's expense payments

Sec. 1. (a) This section applies upon the death of either of the following:

(1) A recipient who is receiving assistance as a dependent child.

(2) A parent of the recipient.

(b) Unless otherwise determined by the director, the division shall pay one thousand two hundred dollars ($1,200) for the funeral director's expenses of the decedent if the following conditions exist:

(1) The estate of the deceased is insufficient to pay the funeral director's expenses.

(2) The person legally responsible for the burial of the deceased is unable to pay the funeral director's expenses.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.77; P.L.5-1993, SEC.90; P.L.273-1999, SEC.83; P.L.205-2013, SEC.184.

IC 12-14-6-2

Cemetery expenses payment

Sec. 2. Unless otherwise determined by the director, in addition to the amount paid under section 1 of this chapter, not more than eight hundred dollars ($800) shall be paid for the cemetery's expenses for the following:

(1) To cover provision of burial rights if necessary.

(2) Opening and closing a burial plot and provision of an outer container.

(3) Service required by the cemetery authorities.

As added by P.L.2-1992, SEC.8. Amended by P.L.273-1999, SEC.84; P.L.205-2013, SEC.185.

IC 12-14-6-3

Contributions excluded in determining amount paid to funeral director

Sec. 3. An amount not exceeding a combined total of seven hundred fifty dollars ($750) that is contributed by:

(1) friends;

(2) relatives; and

(3) the resources of the deceased;

may not be considered when determining the amount to be paid to the

funeral director for expenses under this chapter. However, the resources of the deceased may not be used if the deceased has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility under IC 12-15-2.
As added by P.L.2-1992, SEC.8. Amended by P.L.118-1997, SEC.1.

IC 12-14-6-4
Contributions excluded in determining cemetery expenses payment

Sec. 4. An amount not exceeding a combined total of two hundred dollars ($200) that is contributed by:

(1) friends;
(2) relatives; and
(3) the resources of the deceased;

may not be considered when determining the amount to be paid to the cemetery for expenses under this chapter. However, the resources of the deceased may not be used if the deceased has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility under IC 12-15-2.
As added by P.L.2-1992, SEC.8. Amended by P.L.118-1997, SEC.2.

IC 12-14-6-5
Sworn claims indicating expenses; filing

Sec. 5. The funeral director and the cemetery representative shall file a sworn claim with the division indicating expenses incurred due to the death of a recipient.
As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.78; P.L.5-1993, SEC.91; P.L.273-1999, SEC.85.

IC 12-14-7

Chapter 7. Temporary Assistance for Needy Families; Child Support

IC 12-14-7-1

Assignment of support payment rights; eligibility for assistance

Sec. 1. If an applicant for assistance is entitled to child support or spousal support, the applicant shall, to be eligible for assistance and in compliance with federal regulations, assign the right to:

(1) accrued;

(2) present; and

(3) pending support;

payments to the state agency responsible for administering Title IV-D of the federal Social Security Act.

As added by P.L.2-1992, SEC.8.

IC 12-14-7-2

Absence of support order; cooperate in obtaining order; good faith effort to cooperate required; presumption of good faith effort; other considerations

Sec. 2. (a) If the parents of a dependent child are:

(1) separated or divorced; and

(2) there is no court order for the support of the child;

the other parent shall cooperate, within federal regulations, with the state agency responsible for administering Title IV-D of the federal Social Security Act in obtaining a support order.

(b) If a child is residing with a nonparent guardian or custodian, the nonparent guardian or custodian shall make a good faith effort to cooperate with the division and any agency responsible for administering Title IV-D of the federal Social Security Act in obtaining and enforcing a child support order.

(c) The nonparent custodian or guardian is presumed to make a good faith effort under subsection (b) if the nonparent custodian or guardian does one (1) or more of the following:

(1) Responds to telephone calls from a prosecuting attorney or correspondence from a prosecuting attorney.

(2) Appears for an appointment, in person or by telephone, with a prosecuting attorney.

(3) Appears at a court hearing when requested by a prosecuting attorney.

(4) Does one (1) or more of the following:

(A) Provides information described in IC 12-7-2-43.5(b), to the extent the information is known.

(B) Affirms that the information described in IC 12-7-2-43.5(b) is not known.

(d) Before making a determination that the nonparent custodian or guardian is not making a good faith effort to cooperate, the prosecuting attorney shall consider one (1) or more of the following:

(1) Whether the nonparent custodian or guardian could reasonably be expected to provide the information.

(2) The age of the child for whom child support is being sought.
(3) The circumstances surrounding the conception of the child.
(4) The age and mental capacity of the nonparent custodian or guardian.
(5) The time that has expired since the nonparent custodian or guardian has last had contact with:
(A) the alleged father of the child;
(B) a parent of the child; or
(C) a relative of the persons listed in clause (A) or (B).
(6) Any credible information that demonstrates an inability to provide correct information about an alleged father or a parent of the child because of deception by the alleged father or parent.
(7) Any other credible information obtained by the prosecutor that demonstrates the nonparent custodian or guardian has knowledge of the information sought by the prosecuting attorney.

As added by P.L.2-1992, SEC.8. Amended by P.L.80-2010, SEC.18.

IC 12-14-7-3

Child born out of wedlock; cooperate in establishing paternity and child support; good faith effort to cooperate required; presumption of good faith effort; other considerations

Sec. 3. (a) If a child is born out of wedlock, the mother shall, when establishing the paternity of the child and obtaining a support order, cooperate with the state agency responsible for administering Title IV-D of the federal Social Security Act, in compliance with federal regulations governing Title IV-D of the federal Social Security Act.

(b) If a child is residing with a nonparent guardian or custodian, the nonparent guardian or custodian shall make a good faith effort to cooperate with the division and with any agency responsible for administering Title IV-D of the federal Social Security Act by providing any information known to the nonparent guardian or custodian regarding the potential paternity of the child.

(c) If a child is residing with a nonparent guardian or custodian, the nonparent guardian or custodian shall make a good faith effort to cooperate with the division and any agency responsible for administering Title IV-D of the federal Social Security Act in the establishment and enforcement of a child support order.

(d) The nonparent custodian or guardian is presumed to make a good faith effort under subsections (b) and (c) if the nonparent custodian or guardian does one (1) or more of the following:
(1) Responds to telephone calls from a prosecutor or correspondence from a prosecuting attorney.
(2) Appears for an appointment, in person or by telephone, with a prosecuting attorney.
(3) Appears at a court hearing when requested by a prosecuting attorney.
(4) Does one (1) or more of the following:
(A) Provides information described in IC 12-7-2-43.5(b), to the extent the information is known.

(B) Affirms that the information described in IC 12-7-2-43.5(b) is not known.

(e) Before making a determination that the nonparent custodian or guardian is not making a good faith effort to cooperate, the prosecuting attorney shall consider one (1) or more of the following:

(1) Whether the nonparent custodian or guardian could reasonably be expected to provide the information.

(2) The age of the child for whom child support is being sought.

(3) The circumstances surrounding the conception of the child.

(4) The age and mental capacity of the nonparent custodian or guardian.

(5) The time that has expired since the nonparent custodian or guardian has last had contact with:

(A) the alleged father of the child;

(B) a parent of the child; or

(C) a relative of the persons listed in clause (A) or (B).

(6) Any credible information that demonstrates an inability to provide correct information about an alleged father or a parent of the child because of deception by the alleged father or parent.

(7) Any other credible information obtained by the prosecuting attorney that demonstrates the nonparent custodian or guardian has knowledge of the information sought by the prosecuting attorney.

As added by P.L.2-1992, SEC.8. Amended by P.L.80-2010, SEC.19.

IC 12-14-7-4

Assignment of right to support payments; date effective; amount valid against; termination

Sec. 4. An assignment under section 1 of this chapter:

(1) becomes effective when an applicant becomes eligible to receive assistance;

(2) is valid up to the amount of assistance provided to a recipient that has not been reimbursed to the agency responsible for administering Title IV-A of the federal Social Security Act; and

(3) terminates:

(A) with respect to current support, at the end of a benefit period in which a recipient becomes ineligible to receive assistance; and

(B) with respect to accrued support, when all assistance received by the recipient on behalf of the recipient or on behalf of a child has been repaid.

As added by P.L.2-1992, SEC.8.

IC 12-14-8

Chapter 8. Temporary Assistance for Needy Families; Change of Assistance

IC 12-14-8-1

Appeals

Sec. 1. If:

(1) an application is not acted upon by the county office within a reasonable time after the filing of the application;

(2) an application is denied; or

(3) assistance previously granted is modified or revoked;

the applicant may appeal to the division in the manner and form required by the division.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.79; P.L.5-1993, SEC.92.

IC 12-14-8-2

Hearing on appeal

Sec. 2. The division shall, upon receipt of an appeal, give the applicant an opportunity for a fair hearing.

As added by P.L.2-1992, SEC.8.

IC 12-14-8-3

Review of decisions; consideration of applications

Sec. 3. The division may do the following:

(1) Review a decision of a county office.

(2) Consider an application upon which a decision has not been made by the county office within a reasonable time.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.80; P.L.5-1993, SEC.93.

IC 12-14-8-4

Investigations

Sec. 4. The county office may conduct further investigations if the division requires investigation or the county office believes further investigation is necessary.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.81; P.L.5-1993, SEC.94.

IC 12-14-8-5

Change or withdrawal of assistance

Sec. 5. If after further investigation the division or the county office finds that a child's circumstances have altered sufficiently to warrant the action, the amount of assistance may be:

(1) changed; or

(2) entirely withdrawn.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.82; P.L.5-1993, SEC.95.

IC 12-14-8-6

Cancellation, revocation, or suspension of assistance

Sec. 6. The county office may:

(1) cancel;

(2) revoke; or

(3) suspend;

assistance at any time that a child becomes ineligible for assistance under this article.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.83; P.L.5-1993, SEC.96.

IC 12-14-8-7

Reporting of cancellation, revocation, or suspension of assistance

Sec. 7. Whenever assistance is:

(1) canceled;

(2) revoked;

(3) suspended; or

(4) in any way changed;

the county office shall report the decision and the record of the investigation to the division immediately.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.84; P.L.5-1993, SEC.97.

IC 12-14-8-8

Decisions subject to review by division

Sec. 8. A decision under IC 12-14-1 through IC 12-14-9.5 is subject to review by the division.

As added by P.L.2-1992, SEC.8. Amended by P.L.273-1999, SEC.86.

IC 12-14-8-9

Effect of decision by the division

Sec. 9. A decision of the division that complies with this article:

(1) is binding on the county office involved;

(2) shall be complied with by the county office; and

(3) has the same force and effect as decisions of the county office from which appeals are not taken.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.85; P.L.5-1993, SEC.98.

IC 12-14-8-10

Reconsideration of assistance

Sec. 10. Assistance granted under this article to a dependent child shall be reconsidered by the county office as frequently as required by rules adopted under IC 4-22-2 by the director of the division.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.86; P.L.5-1993, SEC.99.

IC 12-14-9
Repealed

(Repealed by P.L.273-1999, SEC.124.)

IC 12-14-9.5

Chapter 9.5. County Reimbursement of Welfare Expenses; Aid to Dependent Children

IC 12-14-9.5-1

Repealed

(Repealed by P.L.273-1999, SEC.125.)

IC 12-14-9.5-2

Repealed

(Repealed by P.L.273-1999, SEC.125.)

IC 12-14-9.5-3

Repealed

(Repealed by P.L.161-2007, SEC.40.)

IC 12-14-9.5-4

Repealed

(Repealed by P.L.273-1999, SEC.125.)

IC 12-14-9.5-5

Repealed

(Repealed by P.L.273-1999, SEC.125.)

IC 12-14-9.5-6

Repealed

(Repealed by P.L.273-1999, SEC.125.)

IC 12-14-10
Repealed

(Repealed by P.L.181-2006, SEC.62.)

IC 12-14-11
Repealed

(Repealed by P.L.181-2006, SEC.62.)

IC 12-14-12
Repealed

(Repealed by P.L.181-2006, SEC.62.)

IC 12-14-13

Chapter 13. Supplemental Assistance to the Aged

IC 12-14-13-1

Certificate; required information

Sec. 1. If supplemental assistance is granted to an aged person under this chapter, the division shall enter the following on a certificate:

(1) The award made.
(2) The name and residence of the recipient.
(3) The amount of the award.
(4) The date when the assistance to the recipient is to begin.
(5) Any other fact required by the division.

As added by P.L.2-1992, SEC.8.

IC 12-14-13-2

Form of certificate

Sec. 2. The division shall provide the form for the certificate.

As added by P.L.2-1992, SEC.8.

IC 12-14-13-3

Copies of certificate

Sec. 3. Four (4) copies of the certificate must be prepared.

As added by P.L.2-1992, SEC.8.

IC 12-14-13-4

Certificate; seal of division

Sec. 4. A certificate must bear the seal of the division.

As added by P.L.2-1992, SEC.8.

IC 12-14-13-5

Distribution of certificate copies

Sec. 5. The copies of the certificate shall be distributed as follows:

(1) One (1) copy retained by and filed in the division.
(2) One (1) copy filed with the state auditor.
(3) One (1) copy filed in the office of the county recorder.
(4) One (1) copy given to the recipient.

As added by P.L.2-1992, SEC.8.

IC 12-14-14

Chapter 14. Supplemental Assistance to the Blind

IC 12-14-14-1

Eligibility for eye treatment

Sec. 1. The division shall provide for eye treatment to an individual who:

(1) is in need of eye treatment, either to prevent blindness or to restore eyesight;

(2) qualifies for eye treatment under the rules adopted under IC 4-22-2 by the director of the division; and

(3) is living and intends to remain in Indiana in a bona fide living arrangement.

As added by P.L.2-1992, SEC.8.

IC 12-14-14-2

Failure to qualify under definition of blind; qualification for eye treatment

Sec. 2. An individual qualifies for eye treatment under this chapter even if the individual does not qualify under the definition of blind.

As added by P.L.2-1992, SEC.8.

IC 12-14-14-3

Direct payment to provider of eye treatment

Sec. 3. If an individual qualifies for eye treatment under this chapter, payment shall be paid directly to the provider.

As added by P.L.2-1992, SEC.8.

IC 12-14-14-4

Time limits for recommendations concerning assistance applications and for acting on recommendations

Sec. 4. (a) The county office shall submit to the division within fifteen (15) working days the county office's recommendations concerning an application for assistance under this chapter.

(b) The division shall act upon a recommendation under subsection (a) within thirty (30) working days.

(c) The time limits imposed under subsections (a) and (b) do not apply if either of the following occurs:

(1) The application is incomplete.

(2) The county office is unable to verify the information in the application.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.90; P.L.5-1993, SEC.103.

IC 12-14-14-5

Voluntary repayment; interest

Sec. 5. This chapter does not allow interest to be added to a voluntary repayment of supplemental assistance that a recipient or former recipient of blind assistance may, during the recipient's lifetime, desire to make.

As added by P.L.2-1992, SEC.8.

IC 12-14-15

Chapter 15. Supplemental Assistance for Persons With Disabilities

IC 12-14-15-1

Assistance to qualified individuals

Sec. 1. Assistance shall be given to a needy individual with a disability who meets the following qualifications:

(1) Has a pending application on file with the federal Social Security Administration for assistance under Public Law 92-603, supplemental security income (SSI), or is receiving assistance. However, a person whose application for assistance under Public Law 92-603 has been denied but who meets all other requirements of this chapter is eligible for supplemental assistance.

(2) Has one (1) of the following:

(A) A physical or mental impairment, disease, or loss that is verifiable by a physician licensed under IC 25-22.5, that appears reasonably certain to result in death or to last for a continuous period of at least twelve (12) months without significant improvement, and that substantially impairs the individual's ability to perform labor or services or to engage in a useful occupation.

(B) A mental impairment, disease, or loss that is:

(i) diagnosed by a physician licensed under IC 25-22.5 or a health services provider in psychology licensed under IC 25-33-1; and

(ii) verifiable by a physician licensed under IC 25-22.5 or a psychologist licensed under IC 25-33;

that appears reasonably certain to last for a continuous period of at least twelve (12) months without significant improvement, and that substantially impairs the individual's ability to perform labor or services or to engage in a useful occupation. Employment in a sheltered workshop or under an approved vocational rehabilitation plan is not considered a useful occupation for the purposes of this chapter. The determination of medical disability under this subdivision shall be made without reference to the individual's ability to pay for treatment.

(3) Does not have a parent, spouse, or other legally responsible relative able to support the individual.

(4) Is at least eighteen (18) years of age.

(5) Is residing and intends to remain in Indiana in a bona fide living arrangement.

(6) Has insufficient income or other resources to provide a reasonable subsistence according to the standards established by the division.

(7) Except as otherwise provided in this chapter, is not an inmate of or being maintained by a municipal, state, or national institution while receiving assistance.

(8) Has not, at any time within five (5) years immediately before

the date of the filing of an application for assistance under this chapter, made an assignment or transfer of property for the purpose of making or that will make the individual eligible for assistance under this chapter, except as otherwise provided in this chapter.

As added by P.L.2-1992, SEC.8. Amended by P.L.152-1995, SEC.4; P.L.67-2000, SEC.1; P.L.218-2003, SEC.1; P.L.99-2007, SEC.90.

IC 12-14-15-2

Inmates; commencement of assistance

Sec. 2. An inmate may apply for assistance under this chapter. However, if assistance is granted, the assistance may not begin until the individual is no longer an inmate.

As added by P.L.2-1992, SEC.8.

IC 12-14-16
Chapter 16. Supplemental Assistance; Liens

IC 12-14-16-1
Application of chapter
Sec. 1. This chapter applies to an individual who receives any of the following:
(1) Supplemental assistance to the aged.
(2) Supplemental assistance to the blind.
(3) Supplemental assistance for persons with disabilities.
As added by P.L.2-1992, SEC.8.

IC 12-14-16-2
Certificate filed with county recorder; notice of lien
Sec. 2. A certificate filed with the county recorder is notice of a lien against the recipient and the recipient's estate for any amount recoverable under this article.
As added by P.L.2-1992, SEC.8.

IC 12-14-16-3
Property subject to lien; duration; priority
Sec. 3. A lien under section 2 of this chapter:
(1) is a specific lien in favor of the division and the county office against the real property of the recipient;
(2) continues from the date of the filing of the notice until the lien is satisfied; and
(3) takes priority over any other lien subsequently acquired.
As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.91; P.L.5-1993, SEC.104.

IC 12-14-16-4
Certificate not recorded at length
Sec. 4. A certificate may not be recorded at length.
As added by P.L.2-1992, SEC.8.

IC 12-14-16-5
Persons notified by filing
Sec. 5. The filing of a certificate constitutes notice to any person of the rights of the state and county.
As added by P.L.2-1992, SEC.8.

IC 12-14-16-6
Abstract of certificates; separate book
Sec. 6. The county recorder shall keep a separate book where an abstract of all certificates must be entered.
As added by P.L.2-1992, SEC.8.

IC 12-14-16-7
Abstract book; operation as lien; property subject; subsequently acquired property

Sec. 7. The book required by section 6 of this chapter is intended to operate as a lien upon the real or personal property of the recipient, whether then owned or subsequently acquired.
As added by P.L.2-1992, SEC.8.

IC 12-14-16-8
Abstract book; entries

Sec. 8. The book must indicate the following:
(1) The time of filing.
(2) The name of the recipient.
(3) The date of the certificate.
(4) Remarks.
As added by P.L.2-1992, SEC.8.

IC 12-14-16-9
Abstract book; purposes for which used

Sec. 9. The book may be used only for purposes connected with administration programs listed in section 1 of this chapter.
As added by P.L.2-1992, SEC.8.

IC 12-14-16-10
Filing or entry fees; notation of filing entered upon notice from division or county department

Sec. 10. A fee may not be charged for the filing of a certificate or the entry of the abstract. Upon written notice from the division or county office, the recorder shall enter a proper notation of the filing.
As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.92; P.L.5-1993, SEC.105.

IC 12-14-16-11
Lien foreclosure proceedings

Sec. 11. The division and county office may bring a proceeding in foreclosure on the lien or to make arbitration of the amount due on the lien if the action protects a public interest. However, with respect to supplemental assistance to the aged, a foreclosure may not be commenced against the homestead of the recipient while occupied by the recipient or the recipient's spouse, except in case of fraud.
As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.93; P.L.5-1993, SEC.106.

IC 12-14-16-12
Asserting lien against other claimants or lien holders

Sec. 12. The division and county office may at any time assert the lien against other claimants or lien holders in protection of the homestead or other real property of the recipient.
As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.94; P.L.5-1993, SEC.107.

IC 12-14-17

Chapter 17. Supplemental Assistance; Funeral and Cemetery Expenses

IC 12-14-17-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 4 and 5 of this chapter by P.L.118-1997 do not apply to an individual whose death occurs before July 1, 1997.

As added by P.L.220-2011, SEC.261.

IC 12-14-17-1

Application of chapter

Sec. 1. This chapter applies to the following individuals:

(1) An individual who receives supplemental assistance to the aged.

(2) An individual who receives supplemental assistance to the blind.

(3) An individual who receives supplemental assistance for persons with disabilities.

(4) An individual who has a disability, is aged, or is blind who, at the time of death, was certified to receive medical assistance under Medicaid.

As added by P.L.2-1992, SEC.8. Amended by P.L.1-1994, SEC.58; P.L.99-2007, SEC.91.

IC 12-14-17-2

Application of section; funeral expenses payment; preferred claim

Sec. 2. (a) This section applies upon the death of either of the following:

(1) A recipient who is receiving supplemental assistance.

(2) An individual who had a disability, was aged, or was blind who, at the time of death, was certified as eligible to receive medical assistance under Medicaid.

(b) Except as provided in subsection (c), the division shall pay one thousand two hundred dollars ($1,200) for the funeral director's expenses of the decedent if the following conditions exist:

(1) The estate of the deceased is insufficient to pay the funeral director's expenses.

(2) The individual legally responsible for the burial of the deceased is unable to pay the funeral director's expenses.

(c) If the division determines that the estate of the deceased is sufficient to pay all or part of the funeral director's expenses, the division:

(1) shall pay one thousand two hundred dollars ($1,200) for expenses that the funeral director has incurred; and

(2) may recover the amount paid by the division under this section as a preferred claim from the estate of the deceased.

As added by P.L.2-1992, SEC.8. Amended by P.L.1-1994, SEC.59; P.L.273-1999, SEC.87; P.L.9-2006, SEC.1; P.L.99-2007, SEC.92;

P.L.205-2013, SEC.186.

IC 12-14-17-3
Cemetery expenses payment; preferred claim

Sec. 3. (a) Except as provided in subsection (b), in addition to money paid by the division under section 2 of this chapter and even if the deceased or person legally responsible for the deceased possesses a burial lot, the division shall pay eight hundred dollars ($800) for the cemetery's expenses for the deceased to cover the following:

(1) The provision of burial rights if necessary.

(2) The opening and closing of a burial plot and provision of an outer container.

(3) The service required by the cemetery authorities.

(b) If the division determines that the estate of the deceased is sufficient to pay all or part of the cemetery's expenses, the division:

(1) shall pay eight hundred dollars ($800) for expenses that the cemetery has incurred; and

(2) may recover the amount paid by the division under this section as a preferred claim from the estate of the deceased.

As added by P.L.2-1992, SEC.8. Amended by P.L.273-1999, SEC.88; P.L.9-2006, SEC.2; P.L.205-2013, SEC.187.

IC 12-14-17-3.5
Superior claim

Sec. 3.5. Except for a claim for the costs and expenses of administration, a claim filed under sections 2(c) and 3(b) of this chapter is a superior claim.

As added by P.L.9-2006, SEC.3.

IC 12-14-17-4
Funeral expenses payment; contributions excluded in determining amount

Sec. 4. The division:

(1) may not consider a combined total of one thousand seven hundred fifty dollars ($1,750) that is contributed by:

(A) friends;

(B) relatives; and

(C) the resources of the deceased; and

(2) may consider any amount that exceeds one thousand seven hundred fifty dollars ($1,750) contributed by:

(A) friends;

(B) relatives; and

(C) the resources of the deceased;

when determining the amount to be paid to the funeral director for expenses under this chapter. However, the resources of the deceased may not be used if the deceased has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility under IC 12-15-2.

As added by P.L.2-1992, SEC.8. Amended by P.L.118-1997, SEC.3;

P.L.9-2006, SEC.4.

IC 12-14-17-5
Cemetery expenses payment; contributions excluded in determining amount

Sec. 5. The division:

(1) may not consider a combined total of four hundred dollars ($400) that is contributed by:

(A) friends;

(B) relatives; and

(C) the resources of the deceased; and

(2) may consider any amount that exceeds four hundred dollars ($400) contributed by:

(A) friends;

(B) relatives; and

(C) the resources of the deceased;

when determining the amount to be paid to the cemetery for expenses under this chapter. However, the resources of the deceased may not be used if the deceased has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility under IC 12-15-2.

As added by P.L.2-1992, SEC.8. Amended by P.L.118-1997, SEC.4; P.L.9-2006, SEC.5.

IC 12-14-17-6
Claims for expenses

Sec. 6. (a) The funeral director and the cemetery representative shall file a sworn claim with the county office indicating expenses incurred due to the death of a recipient.

(b) With respect to supplemental assistance to the blind and persons with disabilities, a sworn claim must be verified and forwarded to the division for payment.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.95; P.L.5-1993, SEC.108.

IC 12-14-18

Chapter 18. Supplemental Assistance; Excess Property or Income

IC 12-14-18-1

Application of chapter

Sec. 1. This chapter applies to an individual who receives any of the following:

(1) Supplemental assistance to the aged.

(2) Supplemental assistance to the blind.

(3) Supplemental assistance for persons with disabilities.

As added by P.L.2-1992, SEC.8.

IC 12-14-18-1.5

"Eligible individual" defined

Sec. 1.5. As used in this chapter, "eligible individual" means:

(1) a person who was systematically persecuted for racial or religious reasons by Nazi Germany or any other Axis regime; or

(2) an heir of a person described in subdivision (1).

As added by P.L.128-1999, SEC.15.

IC 12-14-18-1.7

"Holocaust victim's settlement payment" defined

Sec. 1.7. As used in this chapter, "Holocaust victim's settlement payment" means a payment received:

(1) as a result of the settlement of the action entitled "In re Holocaust Victims' Asset Litigation", (E.D. NY) C.A. No. 96-4849;

(2) under the German Act Regulating Unresolved Property Claims;

(3) under any other foreign law providing payments for Holocaust claims; or

(4) as a result of the settlement of any other Holocaust claim, including:

(A) insurance claims;

(B) claims relating to looted art;

(C) claims relating to looted financial assets; or

(D) claims relating to slave labor wages.

As added by P.L.128-1999, SEC.16.

IC 12-14-18-2

Cancellation or alteration of amount of assistance

Sec. 2. (a) If while receiving supplemental assistance a recipient obtains property or income in excess of the amount stated in the application, the recipient shall notify the division or county office, if the recipient receives supplemental assistance to the aged, immediately of the receipt or possession of the property or income.

(b) The division may, after investigation, cancel or alter the amount of the assistance in accordance with the circumstances.

(c) Excess supplemental assistance paid is recoverable by the

county as a debt due to the state.

(d) However, an eligible individual is not required to notify the division or county office of a Holocaust victim's settlement payment received by the individual. The division may not alter the amount of supplemental assistance paid to the individual after the individual's receipt of the payment.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.96; P.L.5-1993, SEC.109; P.L.128-1999, SEC.17.

IC 12-14-18-3

Fraudulently obtained supplemental assistance; recovery; penalty; preferred claim against estate; right of action against recipient

Sec. 3. If:

(1) the division determines that a recipient possessed income or property in excess of the amount reported; and

(2) it is shown that supplemental assistance was obtained fraudulently;

the total amount of the supplemental assistance plus a penalty of twenty percent (20%) may be recovered by the division as a preferred claim from the estate of the recipient or in an action brought against the recipient while living.

As added by P.L.2-1992, SEC.8.

IC 12-14-18-4

Fraudulently obtained supplemental assistance; superiority of claim against recipient's estate

Sec. 4. A claim filed under section 3 of this chapter is a superior claim, except for claims for the following:

(1) Expenses of administration.

(2) Expenses of burial and last sickness.

(3) Taxes accrued at the time of the decedent's death.

(4) Debts secured at the time of the decedent's death.

(5) Debts secured by liens created before assistance was granted.

As added by P.L.2-1992, SEC.8.

IC 12-14-19

Chapter 19. Valuation of Certain Resources for Supplemental Assistance

IC 12-14-19-1

Exclusions for irrevocable trusts, prepaid funeral agreements, and life insurance policies

Sec. 1. If an applicant for or recipient of assistance under Title XVI of the federal Social Security Act (42 U.S.C. 1381 et seq.):

(1) establishes one (1) irrevocable trust that has a value not greater than one thousand dollars ($1,000) exclusive of interest and is established for the sole purpose of providing money for the burial of the applicant or recipient;

(2) enters into an irrevocable prepaid funeral agreement that has a value not greater than one thousand dollars ($1,000);

(3) owns a life insurance policy with a face value not greater than one thousand dollars ($1,000) and with respect to which provision is made to pay not more than one thousand dollars ($1,000) toward the applicant's or recipient's funeral expenses; or

(4) receives a Holocaust victim's settlement payment;

the value of the trust, prepaid funeral agreement, life insurance policy, or Holocaust victim's settlement payment may not be considered as a resource in determining the applicant's or recipient's eligibility for the assistance.

As added by P.L.2-1992, SEC.8. Amended by P.L.128-1999, SEC.18.

IC 12-14-19-2

Resources used in determining eligibility for assistance

Sec. 2. (a) If:

(1) an applicant for or recipient of assistance under Title XVI of the federal Social Security Act (42 U.S.C. 1381 et seq.) owns resources described in section 1(1), 1(2), or 1(3) of this chapter; and

(2) the total face value of the resources exceeds one thousand dollars ($1,000);

the value of the resources greater than one thousand dollars ($1,000) may be considered as a resource in determining the applicant's or recipient's eligibility for the assistance.

(b) However, a Holocaust victim's settlement payment received by an eligible individual may not be considered as a resource in determining the applicant's or recipient's eligibility for the assistance under this section.

As added by P.L.2-1992, SEC.8. Amended by P.L.128-1999, SEC.19.

IC 12-14-20

Chapter 20. Voluntary Contributions for Public Assistance Recipients

IC 12-14-20-1

Acceptance by division; deposit in state welfare fund

Sec. 1. (a) The division may accept voluntary contributions from a person desiring to contribute to the support of a parent or other person who receives public assistance.

(b) The division shall deposit contributions made under this section in the state welfare fund.

As added by P.L.2-1992, SEC.8.

IC 12-14-20-2

Issuance of receipt; form

Sec. 2. The division shall issue to each person who makes a contribution under section 1 of this chapter a receipt for the contribution on a form approved by the state board of accounts.

As added by P.L.2-1992, SEC.8.

IC 12-14-21

Chapter 21. Recovery From the Estate of a Recipient of Aged Assistance

IC 12-14-21-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 3 of this chapter by P.L.118-1997 do not apply to an individual whose death occurs before July 1, 1997.

As added by P.L.220-2011, SEC.262.

IC 12-14-21-1

Filing of claims

Sec. 1. Upon the death of an individual who is a recipient of aged assistance under this article, the county office shall file a claim against the individual's estate for recovery of all assistance paid to or on behalf of the individual by a county or state on or after May 1, 1947.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.97; P.L.5-1993, SEC.110.

IC 12-14-21-2

Claims on behalf of assistance providers

Sec. 2. A claim filed under this chapter is on behalf of the division and a county office that has paid assistance to the recipient.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.98; P.L.5-1993, SEC.111.

IC 12-14-21-3

Priority

Sec. 3. Notwithstanding any other law, a claim filed for recovery of aged assistance has priority in order of payment from the estate over all other claims, except the following:

(1) Prior recorded encumbrances.

(2) Taxes.

(3) Reasonable costs of administration.

(4) Funeral expenses in an amount not to exceed five hundred fifty dollars ($550). However, this amount is zero (0) if the decedent has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility under IC 12-15-2.

As added by P.L.2-1992, SEC.8. Amended by P.L.118-1997, SEC.5.

IC 12-14-21-4

Real property occupied by surviving spouse

Sec. 4. (a) If the real property of a deceased recipient is occupied by a surviving spouse, the division may not assert the division's lien or claim during the lifetime of the surviving spouse unless other claimants or persons have opened an estate and are attempting to enforce claims.

(b) If other claimants or persons have opened an estate and are

attempting to enforce claims, the division shall file and assert the claim for recovery of old age assistance.
As added by P.L.2-1992, SEC.8.

IC 12-14-22

Chapter 22. Miscellaneous Provisions Concerning Family Assistance

IC 12-14-22-1

Authority to conduct examinations, issue subpoenas, and require attendance of witnesses or production of books and records

Sec. 1. When enforcing a program administered by the county office, the county office and the division may do the following:

(1) Conduct examinations.

(2) Subpoena witnesses.

(3) Require the attendance of witnesses and the production of books, records, and papers at any reasonable place in the county seat of the county in which the witness resides or the books, records, or papers are located.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.99; P.L.5-1993, SEC.112.

IC 12-14-22-2

Signing of subpoenas and subpoenas duces tecum

Sec. 2. A subpoena and subpoena duces tecum must be signed either by the director of the division or a county office.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.100; P.L.5-1993, SEC.113.

IC 12-14-22-3

Compelling obedience to subpoena or request for production; requirements

Sec. 3. (a) The circuit or superior court or other court with jurisdiction in the county shall compel obedience to a subpoena and request for the production of books, records, and papers after the requirements under subsection (b) have been satisfied.

(b) Requirements to compel information under subsection (a) include the following:

(1) Written application by the officer or employee conducting the examination.

(2) Ten (10) days notice.

(3) A showing of the probable materiality of the books, records, and papers, or, for a witness, that the witness is believed to be possessed of information material to the examination.

As added by P.L.2-1992, SEC.8.

IC 12-14-22-4

Making and keeping of records, accounts, and reports

Sec. 4. The county office shall make and keep records and accounts and make reports concerning assistance under this article that the division requires.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.101; P.L.5-1993, SEC.114.

IC 12-14-22-5
Public inspection of claims for services; organization of records; confidential records

Sec. 5. (a) A claim for services furnished recipients of old age assistance or assistance to dependent children that is on file in the county office shall be kept open to the public during regular office hours for inspection, study, and securing data.

(b) The records shall be maintained in alphabetical order.

(c) This section may not be construed to include confidential medical records, voter registration records under IC 12-14-1.5 or IC 12-14-25, and other confidential records that are by law declared to be confidential or privileged.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.102; P.L.5-1993, SEC.115; P.L.12-1995, SEC.118.

IC 12-14-22-6
Furnishing of assistance recipient lists

Sec. 6. Each month the county office shall furnish each township trustee in the county a list of all persons who are legal residents of the township and who have been certified during the month to receive an award of assistance under this article.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.103; P.L.5-1993, SEC.116.

IC 12-14-22-7
Monthly schedule of payments made; filing; organization of information; public inspection

Sec. 7. (a) A schedule of payments made to or for the benefit of each recipient under this article shall be filed by the county office each month with the county auditor and the prosecuting attorney.

(b) The schedule shall be kept open to the public at all times for inspection, study, and securing data. The schedule must contain the names and addresses, in alphabetical order, of all recipients of benefits.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.104; P.L.5-1993, SEC.117.

IC 12-14-22-8
Use of list; violations; notice

Sec. 8. (a) A person who solicits, discloses, receives, makes use of, or authorizes, participates in, or acquiesces in the use of a list or name kept under this chapter for commercial or political purposes commits a Class B misdemeanor.

(b) The division shall notify the co-directors of the election division if a violation of this section concerns confidential voter registration records under IC 3-7-15.

As added by P.L.2-1992, SEC.8. Amended by P.L.12-1995, SEC.119; P.L.2-1996, SEC.237; P.L.3-1997, SEC.433.

IC 12-14-22-9

Relief from liability of maintaining and supporting child or spouse

Sec. 9. This article does not relieve a person from the liability of maintaining and supporting the person's child or spouse as provided by law.

As added by P.L.2-1992, SEC.8.

IC 12-14-22-10

Recovery of assistance

Sec. 10. If the division or county office has reason to believe that a spouse or parent is or was reasonably able to assist the recipient during the period the recipient received assistance under this article, the division or county office may bring suit during or after the provision of assistance against the spouse or parent to recover the amount of assistance paid under this article or the part that the spouse or parent might reasonably have paid.

As added by P.L.2-1992, SEC.8. Amended by P.L.4-1993, SEC.105; P.L.5-1993, SEC.118.

IC 12-14-22-11

Application for old age assistance or assistance as blind person; county in which to be filed

Sec. 11. (a) Unless for good cause shown or otherwise ordered by the division, an applicant for old age assistance or for assistance as a blind person must file an application in the county in which the applicant has resided continuously for one (1) full year during the period of nine (9) years preceding the date on which the applicant files an application.

(b) If the applicant has resided continuously for one (1) full year in more than one (1) county during the preceding nine (9) years, the applicant must file an application in the county in which the applicant last resided a full year.

(c) If an applicant is living in an institution, private hospital, health facility, or home for the aged, the application must be made to the county in which the applicant last resided continuously for one (1) year before the date the applicant entered the institution, private hospital, health facility, or home for the aged. If the applicant is eligible, assistance shall be awarded by that county.

(d) If the applicant has not resided continuously for one (1) full year during the preceding nine (9) years in one (1) county, the applicant must file an application in the county of residence at the time of application.

As added by P.L.2-1992, SEC.8.

IC 12-14-22-12

Termination of Indiana residency; temporary absence

Sec. 12. An individual who has applied for or is receiving assistance under this article and who moves out of and does not reside in Indiana is ineligible to receive assistance in Indiana. However, temporary absence from Indiana or the county, for a period of time and for reasons that the division approves, does not interrupt

the residence of the recipient as prescribed in this article.
As added by P.L.2-1992, SEC.8.

IC 12-14-22-13
Repealed
(Repealed by P.L.109-1997, SEC.3.)

IC 12-14-23

Chapter 23. Community Action Agencies; Community Action Boards

IC 12-14-23-1

Legislative policy; purpose of chapter

Sec. 1. (a) It is the policy of Indiana to help develop the full potential of each of its citizens so that they can live in decency and dignity and so that they can contribute to the strength of the state as a whole. The resources of the private sector of the economy should be employed to increase the opportunities for people to develop their capabilities.

(b) It is the purpose of this chapter to strengthen, supplement, and coordinate efforts that further the policies stated in subsection (a).

As added by P.L.2-1992, SEC.8.

IC 12-14-23-2

"Community action agency" defined

Sec. 2. As used in this chapter, "community action agency" means an entity that meets the following conditions:

(1) Is any of the following:

(A) A private nonprofit organization that is geographically located within a community.

(B) A private nonprofit organization that is located in a county or counties contiguous to or within reasonable proximity of a community.

(C) A political subdivision, if there is no qualified nonprofit organization identified that meets the criteria set forth in clause A or B.

(2) Has the authority under state or federal law to receive money to support the community action programs described in sections 3 and 4 of this chapter.

(3) Is designated as a community action agency by the governor or by federal law.

As added by P.L.2-1992, SEC.8. Amended by P.L.186-2001, SEC.7.

IC 12-14-23-3

"Community action program" defined

Sec. 3. As used in this chapter, "community action program" means a community based and operated program that meets the following conditions:

(1) Includes or is designed to include a sufficient number of projects or components to provide a range of services and activities that have a measurable and potentially major impact on causes of poverty in:

(A) the community; or

(B) those areas of the community where poverty is a particularly acute problem.

(2) Has been developed, and organizes and combines the program's component projects and activities, in a manner

appropriate to carry out all the purposes of this chapter.

(3) Conforms to any other criteria that the governor prescribes consistent with this chapter.

As added by P.L.2-1992, SEC.8.

IC 12-14-23-4

Community action programs; design and purpose; components

Sec. 4. (a) The components of a community action program shall be designed to assist participants, including the poor and near poor, persons with disabilities, farmworkers, the elderly, and youth, to do the following:

(1) Secure and retain meaningful employment.

(2) Attain an adequate education.

(3) Make better use of available income.

(4) Provide and maintain adequate housing and a suitable living environment.

(5) Undertake family planning consistent with personal and family goals and religious and moral convictions.

(6) Obtain services for the following:

(A) The prevention of narcotics addiction and alcoholism.

(B) The rehabilitation of narcotic addicts and alcoholics.

(7) Obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment related assistance.

(8) Remove obstacles and solve personal and family problems that block the achievement of self-sufficiency.

(9) Achieve greater participation in the affairs of the community.

(10) Make more frequent and effective use of other programs related to the purposes of this chapter.

(b) Components of a community action program may be:

(1) administered by:

(A) the community action agency when consistent with sound and efficient management and applicable law; or

(B) other agencies;

(2) projects assisted from other public or private sources; and

(3) specially designed to meet local needs, or designed under the eligibility standards of a state or federal program providing assistance to a particular type of activity that will help meet local needs.

As added by P.L.2-1992, SEC.8.

IC 12-14-23-5

Organization under IC 12-14-23; right to receive state or federal funds

Sec. 5. A community action agency may not receive state or federal money appropriated or allocated by the state to carry out community action programs unless the agency is organized in accordance with this chapter.

As added by P.L.2-1992, SEC.8.

IC 12-14-23-6
Administration of programs; community action board

Sec. 6. (a) Each community action agency shall administer the agency's community action programs through a volunteer community action board consisting of not less than fifteen (15) and not more than fifty-one (51) members.

(b) One-third (1/3) of the members of the board must be elected public officials currently holding office or representatives of the public officials.

(c) At least one-third (1/3) of the members of the board must be persons chosen by democratic selection procedures that are adequate to assure that those members are representative of the poor in the area served.

(d) The other members of the board must be officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community.

(e) Each member of the board selected to represent a specific geographic area within a community must reside in the area represented.

As added by P.L.2-1992, SEC.8.

IC 12-14-23-7
Subsidiary board or agency responsible for major policy determination; representation of geographic area

Sec. 7. If a community action agency places in a subsidiary board, council, or similar agency the responsibility for major policy determination concerning the character, funding, extent, administration, and budgeting of programs to be carried on in a particular geographic area within the community, the board, council, or agency must be broadly representative of the geographic area.

As added by P.L.2-1992, SEC.8.

IC 12-14-23-8
Community action agencies; consultation with neighborhood based organizations

Sec. 8. Each community action agency shall consult neighborhood based organizations composed of:

(1) residents of the area served; or

(2) members of the groups served;

to assist the agency in the planning, conduct, and evaluation of components of the community action program.

As added by P.L.2-1992, SEC.8.

IC 12-14-23-9
Community action agencies; powers, duties, and activities

Sec. 9. A community action agency shall do the following:

(1) Systematically plan for an effective community action program.

(2) Develop information concerning the problems and causes of poverty in the community.
(3) Determine the amount and effectiveness of the assistance being provided to deal with the problems and causes of poverty in the community.
(4) Establish priorities among projects, activities, and areas to ensure the best and most efficient use of resources.
(5) Encourage agencies engaged in activities related to the community action program to do the following:
(A) Plan for, secure, and administer available assistance on a common or cooperative basis.
(B) Provide planning or technical assistance to those agencies.
(6) In cooperation with community agencies and officials, undertake actions to improve existing efforts to reduce poverty, including the following:
(A) Improving day-to-day communications.
(B) Closing service gaps.
(C) Focusing resources on the most needy.
(D) Providing additional opportunities to low income individuals for any of the following:
(i) Regular employment.
(ii) Participation in the programs or activities for which those community agencies and officials are responsible.
(7) Initiate and sponsor projects responsive to those needs of the poor that are not otherwise being met. The projects must emphasize the following:
(A) Providing central or common services that can be drawn upon by various related programs.
(B) Developing new approaches or new types of services that can be incorporated into other programs.
(C) Filling gaps pending the expansion or modification of the programs.
(8) Establish effective procedures to do the following:
(A) Enable the poor and the affected area residents to influence the character of programs affecting the interests of the poor and the affected area.
(B) Provide for regular participation of the poor and the affected area residents in the implementation of the programs.
(C) Provide technical and other support needed to enable the poor and neighborhood groups to secure available assistance from public and private sources.
(9) Join with and encourage business, labor, and other private groups and organizations to undertake, together with public officials and agencies, activities in support of the community action program that will result in the additional use of private resources and capabilities. These activities shall be undertaken for the following purposes:
(A) Developing new employment opportunities.

(B) Stimulating investment that will have a measurable impact on reducing poverty among residents of areas of concentrated poverty.

(C) Providing methods by which residents of the areas can work with private groups, firms, and institutions in seeking solutions to problems of common concern.

As added by P.L.2-1992, SEC.8.

IC 12-14-23-10

Interlocal cooperation agreements

Sec. 10. Community action agencies may enter into interlocal cooperation agreements with units of government.

As added by P.L.2-1992, SEC.8.

IC 12-14-24
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-14-25

Chapter 25. Voter Registration Services and Food Stamp Program Services

IC 12-14-25-1

Purpose of chapter

Sec. 1. This chapter prescribes the procedures to be followed by the division in processing:

(1) voter registration applications; and

(2) records concerning an individual's declining to register to vote;

under 42 U.S.C. 1973gg-5(a)(2)(A) and IC 3-7-15.

As added by P.L.12-1995, SEC.120.

IC 12-14-25-1.5

Repealed

(Repealed by P.L.81-2005, SEC.35.)

IC 12-14-25-2

Designated individual

Sec. 2. The director of the division shall designate an employee of each food stamp office as the individual responsible for performing the voter registration duties of the bureau under this chapter at that office.

As added by P.L.12-1995, SEC.120.

IC 12-14-25-3

Transmittal of voter registration application or declination forms

Sec. 3. (a) As required under 42 U.S.C. 1973gg-5(d)(1), the designated office employee shall transmit a completed voter registration application:

(1) to the circuit court clerk or board of registration of the county in which the individual's residential address (as indicated on the application) is located; and

(2) not later than five (5) days after the application is accepted at the office.

(b) The designated employee shall transmit the voter registration application (or a separate declination form) on which the individual declined to register to vote by specifically declining to register or by failing to complete the voter registration portion of the application.

(c) The declination must be transmitted:

(1) to the circuit court clerk or board of registration of the county in which the individual's residential address (as indicated on the application) is located; and

(2) not later than five (5) days after the application is accepted at the office.

As added by P.L.12-1995, SEC.120. Amended by P.L.3-1995, SEC.145; P.L.258-2013, SEC.88.

IC 12-14-25-4

Repealed

(Repealed by P.L.3-1995, SEC.155.)

IC 12-14-25-5

Methods for transmittal of voter registration applications or declinations

Sec. 5. A designated employee may use any of the following methods to transmit voter registration applications or declinations under section 3 or 4 of this chapter:

(1) Hand delivery to the circuit court clerk or board of registration.

(2) Certified mail, return receipt requested.

As added by P.L.12-1995, SEC.120.

IC 12-14-25-6

Hand delivery

Sec. 6. If a county director or designated employee transmits registration applications or declinations by hand delivery under section 5(1) of this chapter, the circuit court clerk or board of registration shall provide the director or designated employee with a receipt for the forms. The receipt must state the date and time of delivery, and the printed name and signature of the person who received the forms.

As added by P.L.12-1995, SEC.120.

IC 12-14-25-7

Information to be provided to division

Sec. 7. (a) The co-directors of the election division shall provide the division with a list of the current addresses and telephone numbers of the offices of the circuit court clerk or board of registration in each county. The division shall promptly forward the list and each revision of the list to each county office.

(b) The co-directors shall provide the division with pre-addressed packets for food stamp offices to transmit applications under section 5(1) or 5(2) of this chapter.

As added by P.L.12-1995, SEC.120. Amended by P.L.2-1996, SEC.238; P.L.3-1997, SEC.434.

IC 12-14-25-8

Confidentiality of information

Sec. 8. Voter registration information received or maintained under this chapter is confidential.

As added by P.L.12-1995, SEC.120.

IC 12-14-25-9

Notice regarding elections

Sec. 9. The codirectors of the election division shall notify the division of family resources of the following:

(1) The scheduled date of each primary, general, municipal, and special election.

(2) The jurisdiction in which the election will be held.

As added by P.L.12-1995, SEC.120. Amended by P.L.2-1996, SEC.239; P.L.3-1997, SEC.435; P.L.145-2006, SEC.81; P.L.146-2008, SEC.385.

IC 12-14-25-10

Information to be provided to election division

Sec. 10. The division shall provide the co-directors of the election division with a list stating the following:

(1) The address and telephone number of each food stamp office.

(2) The name of each employee designated by the director to be responsible for performing voter registration duties under this chapter.

As added by P.L.12-1995, SEC.120. Amended by P.L.2-1996, SEC.240; P.L.3-1997, SEC.436.

IC 12-14-25.5
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-14-26
Repealed

(Repealed by P.L.128-2012, SEC.11.)

IC 12-14-28

Chapter 28. Temporary Assistance for Needy Families Expenditures

IC 12-14-28-1

"Qualifying family"

Sec. 1. As used in this chapter, "qualifying family" means a family that meets all the following conditions:

(1) The family consists of:

(A) a pregnant woman;

(B) a child who is less than eighteen (18) years of age; or

(C) a child who is at least eighteen (18) years of age but less than twenty-four (24) years of age who is attending secondary or post secondary school at least half-time.

(2) The child described in subdivision (1)(B) or (1)(C) resides with a custodial parent or other adult caretaker relative, which may include a child that may be temporarily living away from the custodial parent or other adult caretaker relative while attending school.

(3) The gross family income is less than four hundred percent (400%) of the federal poverty level.

As added by P.L.273-1999, SEC.199. Amended by P.L.153-2011, SEC.15.

IC 12-14-28-2

Application of other expenditures

Sec. 2. (a) The division shall use the criteria for a qualifying family set forth in section 1 of this chapter to determine and apply all other state or local program expenditures by all state agencies and by political subdivisions that qualify as expenditures toward Indiana's maintenance of effort under the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.).

(b) The division shall determine whether the amount of expenditures that it projects will be reported to the federal government as Indiana's maintenance of effort under the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 265) will be less than necessary to avoid a reduction in the federal TANF distribution to Indiana.

As added by P.L.273-1999, SEC.199. Amended by P.L.1-2009, SEC.102.

IC 12-14-28-3

Provisions of assistance

Sec. 3. (a) The division may provide assistance under a plan of temporary assistance to needy families for a qualifying family.

(b) Individuals who may receive assistance for a qualifying family must reside with the qualifying family and include the following individuals:

(1) The custodial parent or other adult caretaker relative.

(2) The spouse of the custodial parent or other adult caretaker

relative.

(3) A child who is less than eighteen (18) years of age.

(4) A child who is at least eighteen (18) years of age but less than twenty-four (24) years of age and who is attending secondary or post secondary school at least half-time, even though the child may be temporarily living away from the custodial parent or other adult caretaker relative while attending school.

(5) A pregnant woman and her spouse if the family's eligibility is based on the pregnancy.

(6) The noncustodial parent of a child described in subdivision (3) or (4) even though the noncustodial parent is not residing with the eligible family.

As added by P.L.273-1999, SEC.199.

IC 12-14-28-3.3

Eligibility of individuals with criminal convictions; participation in substance abuse or mental health treatment; substance abuse testing

Sec. 3.3. (a) An individual who:

(1) except for 21 U.S.C. 862a(a), meets the federal and Indiana TANF program eligibility requirements;

(2) has been convicted of an offense under federal or state law that:

(A) is classified as a felony;

(B) has as an element the possession or use of a controlled substance (as defined in 21 U.S.C. 802(6)); and

(C) does not have as an element the distribution or manufacturing of a controlled substance (as defined in 21 U.S.C. 802(6)); and

(3) either has completed or is participating in substance abuse or mental health treatment provided by:

(A) an addiction services provider certified by the division of mental health and addiction;

(B) a mental health provider (as defined in IC 16-36-1.5-2);

(C) the department of correction;

(D) the federal government; or

(E) a faith based program certified by the division of mental health and addiction;

is eligible to receive assistance under this chapter for not more than twelve (12) months.

(b) For purposes of eligibility for assistance under this chapter, a court may order an individual described in subsection (a) to participate in substance abuse or mental health treatment under this section.

(c) The department of correction shall assist an individual who:

(1) is incarcerated by the department of correction; and

(2) will be eligible for assistance under this chapter upon:

(A) release to parole;

(B) assignment to a community transition program; or

(C) discharge from the department of correction;

with applying for assistance under this chapter as described in IC 11-10-12-5.

(d) An individual who is receiving TANF under this section must be tested not less than one (1) time every two (2) months for drugs at a time chosen by the provider of the substance abuse or mental health treatment the individual completed or is participating in under this section. Nothing in this section shall prevent the provider from testing for drugs more frequently if more frequent testing is part of the program operated by the provider.

As added by P.L.161-2007, SEC.32.

IC 12-14-28-3.8

State election to opt out

Sec. 3.8. In accordance with 21 U.S.C. 862a(d)(1), the state elects to opt out of the application of 21 U.S.C. 862a(a) for an individual who has completed or is participating in a substance abuse or mental health treatment program described in section 3.3(a)(3) of this chapter.

As added by P.L.161-2007, SEC.33.

IC 12-14-28-5

Income eligibility limits

Sec. 5. The division may establish income eligibility limits that are lower than those specified in section 1 of this chapter for a particular type of benefit or service.

As added by P.L.273-1999, SEC.199.

IC 12-14-28-6

Eligibility not considered entitlement

Sec. 6. This chapter shall not be interpreted as an entitlement for an individual or family to assistance under a program established under Indiana's plan of temporary assistance to needy families.

As added by P.L.273-1999, SEC.199.

IC 12-14-28-7

Rules

Sec. 7. The division may adopt rules under IC 4-22-2 necessary to implement this chapter.

As added by P.L.273-1999, SEC.199.

IC 12-14-29

Chapter 29. Assistance for Reentry Court Program Participants

IC 12-14-29-1

"Reentry court program"

Sec. 1. "Reentry court program", for purposes of this chapter, refers to a program that meets the following requirements:

(1) A circuit or superior court has established and administers the program.

(2) The program is designed to supervise and provide services to an individual who was previously incarcerated by the department of correction in an adult correctional facility.

(3) The goal of the program is to increase the likelihood that the individual will:

(A) become self-sufficient; and

(B) not commit additional crimes.

(4) The program provides intensive supervision, which may include twenty-four (24) hour electronic monitoring supervision of the individual.

(5) The program provides regular and direct judicial intervention that is supported and advised by a transition team that consists of at least the following:

(A) A professional from a community corrections program.

(B) A professional from a victim assistance program.

(C) A professional from the treatment community.

(D) An employment trainer.

(E) A community volunteer.

As added by P.L.92-2005, SEC.3.

IC 12-14-29-2

Eligibility for SNAP program

Sec. 2. Under this chapter, an individual is eligible for food stamps if the individual meets all the following requirements:

(1) The individual is a resident of:

(A) a county having a reentry court program;

(B) a county that offers individuals on probation or in a community corrections program evidence-based mental health and addiction forensic treatment services administered or coordinated by a provider certified by the division of mental health and addiction to provide mental health or addiction treatment; or

(C) Marion County.

(2) The individual was convicted of an offense under IC 35-48 (controlled substances) for conduct occurring after August 22, 1996.

(3) Except for 21 U.S.C. 862a(a), the individual meets the federal and Indiana food stamp program requirements.

(4) The individual is successfully participating in:

(A) a reentry court program;

(B) an evidence-based mental health and addiction forensic treatment services program administered or coordinated by a provider certified by the division of mental health and addiction to provide mental health or addiction treatment as part of the person's probation or community corrections; or
(C) the Marion County superior court pilot project described in IC 11-12-3.8-6.

As added by P.L.92-2005, SEC.3. Amended by P.L.184-2014, SEC.6; P.L.158-2014, SEC.6.

IC 12-14-29-3
Eligibility for TANF program

Sec. 3. Under this chapter, an individual is eligible for the TANF program if the individual meets all the following requirements:

(1) The individual is a resident of:
(A) a county having a reentry court program;
(B) a county that offers individuals on probation or in a community corrections program evidence-based mental health and addiction forensic treatment services administered or coordinated by a provider certified by the division of mental health and addiction to provide mental health or addiction treatment; or
(C) Marion County.

(2) The individual was convicted of an offense under IC 35-48 (controlled substances) for conduct occurring after August 22, 1996.

(3) Except for 21 U.S.C. 862a(a), the individual meets the federal and Indiana TANF program requirements.

(4) The individual is successfully participating in:
(A) a reentry court program;
(B) an evidence-based mental health and addiction forensic treatment services program administered or coordinated by a provider certified by the division of mental health and addiction to provide mental health or addiction treatment as part of the person's probation or community corrections; or
(C) the Marion County superior court pilot project described in IC 11-12-3.8-6.

As added by P.L.92-2005, SEC.3. Amended by P.L.184-2014, SEC.6; P.L.158-2014, SEC.7.

IC 12-14-29-4
State election to opt out

Sec. 4. In accordance with 21 U.S.C. 862a(d)(1), the state elects to opt out of the application of 21 U.S.C. 862a(a) for individuals participating in:

(1) a reentry court program;

(2) a program that offers individuals on probation or in a community corrections program evidence-based mental health and addiction forensic treatment services administered or coordinated by a provider certified by the division of mental

health and addiction to provide mental health or addiction treatment; or

(3) the Marion County superior court pilot project described in IC 11-12-3.8-6.

As added by P.L.92-2005, SEC.3. Amended by P.L.158-2014, SEC.8.

IC 12-14-29-5

12 month limitation for receipt of food stamps and TANF

Sec. 5. (a) If referred by a court, an individual who meets the requirements of section 2 of this chapter may receive food stamps for not more than twelve (12) months.

(b) If referred by a court, an individual who meets the requirements of section 3 of this chapter may receive TANF benefits for not more than twelve (12) months.

As added by P.L.92-2005, SEC.3.

IC 12-14-29-6

Modification or revocation of court order

Sec. 6. A court may modify or revoke an order issued under this chapter concerning a federal Supplemental Nutrition Assistance Program eligible individual or a TANF eligible individual at any time.

As added by P.L.92-2005, SEC.3. Amended by P.L.158-2014, SEC.9; P.L.184-2014, SEC.9.

IC 12-14-29-7

Court notification to division of family resources local office

Sec. 7. A court shall immediately notify the division of family resources local office:

(1) upon the court's finding of probable cause that an individual has committed a felony offense during the period in which the individual is eligible for TANF or the federal Supplemental Nutrition Assistance Program; or

(2) when an individual has been terminated from:

(A) a reentry court program;

(B) an evidence-based mental health and addiction forensic treatment services program administered or coordinated by a provider certified by the division of mental health and addiction to provide mental health or addiction treatment as part of the person's probation or community corrections; or

(C) the Marion County superior court pilot project described in IC 11-12-3.8-6;

during the period in which the individual is eligible for TANF or the federal Supplemental Nutrition Assistance Program.

As added by P.L.92-2005, SEC.3. Amended by P.L.128-2012, SEC.12; P.L.184-2014, SEC.10; P.L.158-2014, SEC.10.

IC 12-14-30

Chapter 30. Supplemental Nutrition Assistance Program

IC 12-14-30-1

"SNAP"

Sec. 1. As used in this chapter, "SNAP" refers to the federal Supplemental Nutrition Assistance Program under 7 U.S.C. 2011 et seq.

As added by P.L.260-2013, SEC.1.

IC 12-14-30-2

Schedule of distribution of benefits; authority to prorate benefits

Sec. 2. (a) Beginning January 1, 2014, the division shall implement a schedule for the distribution of benefits to an approximately evenly distributed number of SNAP recipients during the fifth through the twenty-third day of each month.

(b) The division may prorate benefits for a SNAP recipient for the first month the division begins to use the schedule described in subsection (a).

As added by P.L.260-2013, SEC.1.

IC 12-15

ARTICLE 15. MEDICAID

IC 12-15-1

Chapter 1. Administration

IC 12-15-1-1

Administration of Medicaid program

Sec. 1. The office of the secretary shall administer the Medicaid program under 42 U.S.C. 1396 et seq.

As added by P.L.2-1992, SEC.9. Amended by P.L.109-2014, SEC.18.

IC 12-15-1-2

Agents of the division of family resources

Sec. 2. A county office shall serve as an agent of the division of family resources.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.106; P.L.5-1993, SEC.119; P.L.145-2006, SEC.82.

IC 12-15-1-3

Supervision of county offices

Sec. 3. The division of family resources shall supervise the county offices regarding services provided under this chapter.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.107; P.L.5-1993, SEC.120; P.L.145-2006, SEC.83.

IC 12-15-1-4

Written protocols; contracts implementing state program

Sec. 4. (a) The office and the division of family resources shall formulate written protocols that specify the following:

(1) That the county offices are responsible for all eligibility determinations made under the state Medicaid program.

(2) That the office is responsible for payment of a claim made under the state Medicaid plan.

(b) The office may enter into any contract to implement the state program.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.108; P.L.5-1993, SEC.121; P.L.145-2006, SEC.84.

IC 12-15-1-5

Agreement with Commissioner of the United States Social Security Administration; eligibility determinations for aged, blind, and disabled; authorization to request transition change for determinations

Sec. 5. (a) The office may enter into an agreement with the Commissioner of the United States Social Security Administration under which the Commissioner shall accept applications and make determinations of eligibility for Medicaid for individuals who are aged, individuals who are blind, and individuals with a disability in accordance with the standards and criteria established by the state

plan for Medicaid.

(b) The office may request the United States Department of Health and Human Services to approve Indiana's transition, beginning January 1, 2014, as a state that determines eligibility for individuals who are aged, blind, or disabled under Medicaid based on Section 1634 of the federal Social Security Act.

As added by P.L.2-1992, SEC.9. Amended by P.L.99-2007, SEC.93; P.L.160-2011, SEC.5.

IC 12-15-1-6

Agreement with Secretary of United States Department of Health and Human Services; division of administrative costs

Sec. 6. The office may pay to the Secretary of the United States Department of Health and Human Services one-half (1/2) of the administrative cost of carrying out the agreement. However, with respect to an individual eligible for benefits under the federal Supplemental Security Income program the costs must only include those costs which are additional to the cost in carrying out the Supplemental Security Income program.

As added by P.L.2-1992, SEC.9.

IC 12-15-1-7

Agreement with Secretary of United States Department of Health and Human Services; eligibility determinations after January 1, 1974

Sec. 7. The agreement under section 5 of this chapter must cover eligibility determinations after January 1, 1974.

As added by P.L.2-1992, SEC.9.

IC 12-15-1-8

Receipt of assistance in adult category before January 1, 1974; automatic coverage

Sec. 8. An individual who receives assistance in one (1) of the adult categories before January 1, 1974, is not required to make a new application and is automatically covered by the plan while the individual remains eligible.

As added by P.L.2-1992, SEC.9.

IC 12-15-1-9

Application to county offices

Sec. 9. (a) If the state does not enter into a contract with the Secretary of the United States Department of Health and Human Services to administer the Medicaid program, a recipient must make an application for Medicaid to the county office of the county or district in which the recipient resides.

(b) The application must be in the manner required by the office.

(c) However, an applicant who:

(1) was receiving assistance before January 1, 1974; and

(2) has been certified as eligible for Medicaid;

is not required to make an application while the recipient continues

to remain eligible under state laws.
As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.109; P.L.5-1993, SEC.122.

IC 12-15-1-10
Administrative actions and directions; adoption of procedures and rules

Sec. 10. The secretary and office may:

(1) take actions;
(2) give directions; and
(3) adopt procedures and rules under IC 4-22-2;

necessary to carry out the Medicaid program and the federal Social Security Act to provide Medicaid and ensure uniform equitable treatment of applicants for and recipients of Medicaid.
As added by P.L.2-1992, SEC.9.

IC 12-15-1-11
Money received from recipient or collected from estate; payment into Medicaid account; apportionment

Sec. 11. (a) Money received from a Medicaid recipient or collected from the recipient's estate shall be:

(1) forwarded to the office; and
(2) paid into the Medicaid account of the state general fund.

(b) Money under subsection (a) must be distributed in proportion to the amounts in which the assistance payments represented money contributed by the federal government and the state.
As added by P.L.2-1992, SEC.9.

IC 12-15-1-12
Attorney general; appearance and representation of state in proceedings affecting property or resources upon which state may have claim

Sec. 12. The attorney general may enter the appearance of the state in a proceeding affecting property or resources upon which the state may have a claim for Medicaid to do the following:

(1) Prosecute and defend in the proceeding.
(2) Institute probate proceedings as a creditor to deceased persons.
(3) Enter into a stipulation, a compromise, a settlement, an agreement, or an arrangement with respect to appropriate claims, either in the course of or in the absence of and apart from any action or proceeding.

As added by P.L.2-1992, SEC.9.

IC 12-15-1-13
Annual effectiveness evaluation

Sec. 13. The office shall conduct an annual evaluation of the effectiveness of providing Medicaid under IC 12-15-2-12 and IC 12-15-2-14.
As added by P.L.2-1992, SEC.9.

IC 12-15-1-14
Effectiveness evaluation; annual report to legislative council

Sec. 14. The office shall annually submit a report to the legislative council that covers all aspects of the office's evaluation, including the following:

(1) The number and demographic characteristics of the individuals receiving Medicaid during the preceding fiscal year.
(2) The number of births during the preceding fiscal year.
(3) The number of infant deaths during the preceding fiscal year.
(4) The improvement in the number of low birth weight babies for the preceding fiscal year.
(5) The total cost of providing Medicaid during the preceding fiscal year.
(6) The total cost savings during the preceding fiscal year that are realized in other state funded programs because of providing Medicaid.

The report must be in an electronic format under IC 5-14-6.
As added by P.L.2-1992, SEC.9. Amended by P.L.28-2004, SEC.103.

IC 12-15-1-15
Assignment, enforcement, and collection of rights of payment; contracts for administration of program; rules

Sec. 15. (a) The office shall administer the program of assignment, enforcement, and collection of rights of payments for medical care that is provided for under 42 U.S.C. 1396k.

(b) The office may enter into contracts to administer the program described in subsection (a).

(c) The administrator of the office shall adopt rules under IC 4-22-2 to implement this section.
As added by P.L.2-1992, SEC.9.

IC 12-15-1-16
School corporation or school corporation's provider; enrollment in Medicaid program; sharing reimbursable costs

Sec. 16. (a) Each:

(1) school corporation; or
(2) school corporation's employed, licensed, or qualified provider;

must enroll in a program to use federal funds under the Medicaid program (IC 12-15-1 et seq.) with the intent to share the costs of services that are reimbursable under the Medicaid program and that are provided to eligible children by the school corporation. However, a school corporation or a school corporation's employed, licensed, or qualified provider is not required to file any claims or participate in the program developed under this section.

(b) The office of Medicaid policy and planning and the department of education may develop policies and adopt rules to administer the program developed under this section.

(c) Three percent (3%) of the federal reimbursement for paid

claims that are submitted by the school corporation under the program required under this section must be:

(1) distributed to the state general fund for administration of the program; and

(2) used for consulting to encourage participation in the program.

The remainder of the federal reimbursement for services provided under this section must be distributed to the school corporation. The state shall retain the nonfederal share of the reimbursement for Medicaid services provided under this section.

(d) The office of Medicaid policy and planning, with the approval of the budget agency and after consultation with the department of education, shall establish procedures for the timely distribution of federal reimbursement due to the school corporations. The distribution procedures may provide for offsetting reductions to distributions of state tuition support or other state funds to school corporations in the amount of the nonfederal reimbursements required to be retained by the state under subsection (c).

As added by P.L.80-1994, SEC.1. Amended by P.L.224-2003, SEC.64.

IC 12-15-1-17

Reimbursement from parent for health services provided to child

Sec. 17. (a) The office shall, under procedures established by the department of state revenue, file an application for the offset of state tax refunds due to a parent who:

(1) is required by a court or an administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance;

(2) has received payment from a third party for the costs of the services to the child; and

(3) has not used the payments to reimburse, as appropriate, either the:

(A) other parent or guardian of the child; or

(B) provider of the health services;

to the extent necessary to reimburse the office, or, where the other parent has paid the provider or the office, the other parent, for the costs of the services provided to the child under the Medicaid program.

(b) The office may institute garnishment proceedings against the wages, salary, or other employment income of the parent described in subsection (a) to the extent necessary to reimburse the office for the costs of health services provided to a child who has received the services under the Medicaid program.

(c) Claims for current or past due child support take priority over any claims authorized by this section.

As added by P.L.46-1995, SEC.30.

IC 12-15-1-18

Use of funds to encourage application and enrollment of minors

Sec. 18. The office shall use all funds that are appropriated to the office under 42 U.S.C. 1397ee to conduct activities allowed under 42 U.S.C. 1397bb(c)(1) in order to encourage children who are:

(1) less than nineteen (19) years of age;

(2) eligible for Medicaid; and

(3) not enrolled in the Medicaid program;

to apply for and enroll in the Medicaid program.

As added by P.L.58-1998, SEC.5.

IC 12-15-1-19

Contracts with community entities

Sec. 19. The office may, in administering managed care programs, contract with community entities, including private entities, for the following:

(1) Outreach for and enrollment in the managed care programs.

(2) Provision of services.

(3) Consumer education and public health education.

As added by P.L.273-1999, SEC.170.

IC 12-15-1-20

Implementation of policy of funds following an individual transferring to community based care

Sec. 20. (a) The office shall implement a policy that allows the amount of Medicaid funds necessary to provide services to follow an individual who is transferring from institutional care to Medicaid home and community based care.

(b) The amount may not exceed the amount that would have been spent on the individual if the individual had stayed in institutional care.

As added by P.L.47-2009, SEC.2.

IC 12-15-1-20.2

Computer system for disproportionate share hospital payment program; HCI; UPL

Sec. 20.2. The office shall develop, maintain, and use a computer system to store documents concerning the disproportionate share hospital payment program, the hospital care for the indigent program, and the hospital care for the indigent upper payment level program. The system must include the following documents related to the programs:

(1) Federal and state laws.

(2) Federal and state rules and regulations.

(3) Policies and guidance statements.

(4) Medicaid waivers.

(5) Medicaid state plan amendments.

(6) Funding allotments to health care facilities.

(7) Funding formulas and any other explanatory information detailing how an individual allotment is calculated.

As added by P.L.140-2009, SEC.1.

IC 12-15-1-20.4
Suspension of Medicaid for a delinquent child; participation in Medicaid upon release

Sec. 20.4. (a) If a Medicaid recipient is:

(1) less than eighteen (18) years of age;

(2) adjudicated to be a delinquent child and placed in:

(A) a community based correctional facility for children;

(B) a juvenile detention facility; or

(C) a secure facility, not including a facility licensed as a child caring institution under IC 31-27; and

(3) ineligible to participate in the Medicaid program during the placement described in subdivision (2) because of federal Medicaid law;

the division of family resources, upon notice that a child has been adjudicated to be a delinquent child and placed in a facility described in subdivision (2) shall suspend the child's participation in the Medicaid program for up to six (6) months before terminating the child's eligibility.

(b) If the division of family resources receives:

(1) a dispositional decree under IC 31-37-19-28; or

(2) a modified disposition order under IC 31-37-22-9;

and the department of correction gives the division at least forty (40) days notice that a child will be released from a facility described in subsection (a)(2)(C), the division of family resources shall take action necessary to ensure that a child described in subsection (a) is eligible to participate in the Medicaid program upon the child's release, if the child is eligible to participate.

As added by P.L.114-2009, SEC.1. Amended by P.L.1-2010, SEC.57.

IC 12-15-1-21
Single electronic Medicaid eligibility verification system

Sec. 21. Beginning January 1, 2012, the office and a contractor of the office shall operate a single electronic eligibility verification system that would allow the determination of whether an individual is participating in the state Medicaid program.

As added by P.L.27-2011, SEC.1.

IC 12-15-1-21.2
Plan to qualify services for exceptional learners; recovery of state share of cost of services

Sec. 21.2. (a) The budget agency shall develop a plan and seek federal approval to qualify services that are provided to assist exceptional learners in accessing or coordinating services, or both, under the state Medicaid plan.

(b) The budget agency and the office of the secretary shall establish a method to collect the state share of the costs of services that are:

(1) reimbursable under the Medicaid program; and

(2) provided to Medicaid eligible children receiving services in private psychiatric residential treatment facilities;

from the county of residence of the child receiving services.
As added by P.L.220-2011, SEC.263.

IC 12-15-1-21.7
Life insurance policy treatment

Sec. 21.7. (a) To the extent allowed by federal law, the office may use federal or state funds under the Medicaid program to pay premiums and other expenses related to a life insurance policy that is in force and owned by an applicant or a recipient who:

(1) is:
(A) at least fifty-five (55) years of age; or
(B) permanently institutionalized; and

(2) has:
(A) made an irrevocable election to name the state as a beneficiary of the life insurance policy for an amount equal to:
(i) Medicaid benefits provided to the recipient under IC 12-15-5 or IC 12-14-17; plus
(ii) premiums or expenses paid by the office to the insurer that issued the life insurance policy; or
(B) collaterally assigned the life insurance policy to the state under a written agreement submitted to and recorded by the insurer that issued the life insurance policy.

(b) Any life insurance policy that is in force and under which the state is named as an irrevocable beneficiary or that has been collaterally assigned to the state may not be sold, assigned, or the ownership transferred to any person or entity. This restriction exists as long as the life insurance policy names the state as an irrevocable beneficiary or as long as the life insurance policy is collaterally assigned to the state.

(c) Life insurance policy proceeds that exceed the amount of Medicaid benefits provided to a recipient shall be paid to a beneficiary named by the applicant or recipient.
As added by P.L.196-2011, SEC.1.

IC 12-15-1-22
Visit to Medicaid provider offices, entities, or facilities; rules

Sec. 22. (a) The office shall visit a Medicaid provider's office, entity, or facility if:

(1) the provider is categorized as high risk to the Medicaid program under 42 U.S.C. 1395cc(j)(2)(B) and 42 CFR 455.450; and

(2) the provider's Medicaid claims have increased by at least fifty percent (50%) over a six (6) month period.

(b) The office shall adopt rules under IC 4-22-2 or issue a Medicaid provider bulletin setting forth procedures and standards for the visit required under this section.
As added by P.L.197-2013, SEC.9.

IC 12-15-1.3

Chapter 1.3. Medicaid Waivers and Plan Amendments

IC 12-15-1.3-1

Waivers to implement intent of P.L.46-1995; expiration of section

Sec. 1. (a) The terms and conditions of any waivers that are obtained by the state from the United States Department of Health and Human Services or the United States Department of Agriculture before January 1, 1995:

(1) are valid;

(2) comply with the legislative intent of P.L.46-1995;

(3) need not be resubmitted for approval; and

(4) may be implemented until the terms and conditions of any waivers requested under P.L.46-1995 are received and affidavits are filed with the governor's office and the budget committee attesting that the necessary waiver requests have been approved.

(b) The office of the secretary and the office of Medicaid policy and planning shall:

(1) provide the greatest effort possible to secure all federal waivers required under P.L.46-1995; and

(2) reapply for waivers required under P.L.46-1995 but denied by:

(A) the Secretary of the United States Department of Health and Human Services;

(B) the Secretary of the United States Department of Agriculture; or

(C) both the officials described in clauses (A) and (B).

(c) This section expires on the date that all waivers requested under P.L.46-1995 have been obtained.

As added by P.L.220-2011, SEC.264.

IC 12-15-1.3-2

Application of waivers under P.L.46-1995 to certain persons; expiration of section

Sec. 2. (a) Any part of P.L.46-1995 that requires a waiver from the United States Department of Health and Human Services or the United States Department of Agriculture does not apply to a person who first received assistance under IC 12-14 before January 1, 1994.

(b) This section expires on the later of the following:

(1) January 1, 1996.

(2) Ninety (90) days after the date that all waivers required to implement P.L.46-1995 have been approved.

As added by P.L.220-2011, SEC.264.

IC 12-15-1.3-3

Application of waivers under P.L.46-1995 to certain persons; expiration of section

Sec. 3. (a) Any part of P.L.46-1995 that requires a waiver from the United States Department of Health and Human Services or the

United States Department of Agriculture does not apply to a person who first received assistance under IC 12-14 after December 31, 1993.

(b) This section expires on the later of the following:

(1) January 1, 1997.

(2) Fifteen (15) months after the date that all waivers required to implement P.L.46-1995 have been approved.

As added by P.L.220-2011, SEC.264.

IC 12-15-1.3-4

Waivers to implement P.L.257-1997

Sec. 4. The division of family resources shall seek any available waivers from the Secretary of the United States Department of Health and Human Services that are required to carry out P.L.257-1997.

As added by P.L.220-2011, SEC.264.

IC 12-15-1.3-5

Expired

(Expired 12-31-2011 by P.L.220-2011, SEC.264.)

IC 12-15-1.3-6

Waiver application for prescription drug program for low income senior citizens; conditions; changes to program approved by prescription drug advisory committee; limitation of state expenditures; implementation of waiver

Sec. 6. (a) The office shall develop a federal Medicaid waiver application under which a prescription drug program may be established or implemented to provide access to prescription drugs for low income senior citizens.

(b) Before the office may submit an application for a federal Medicaid waiver that will affect the Indiana prescription drug program established under IC 12-10-16, the following must occur:

(1) The office shall submit the proposed Medicaid waiver to the prescription drug advisory committee.

(2) The prescription drug advisory committee must review, allow public comment on, and approve the proposed Medicaid waiver.

(c) A prescription drug program established or implemented by the office or a contractor of the office under this section may not limit access to prescription drugs for prescription drug program recipients, except under the following circumstances:

(1) Access may be limited to the extent that restrictions were in place in the Medicaid program on March 26, 2002.

(2) Except as provided by IC 12-15-35.5-3(b) and IC 12-15-35.5-3(c), access may be limited to:

(A) prevent:

(i) fraud;

(ii) abuse;

(iii) waste;

(iv) overutilization of prescription drugs; and
(v) inappropriate utilization of prescription drugs; or
(B) implement a disease management program.
IC 12-15-35.5-7 applies to a limit implemented under this subdivision.
(d) Changes to a prescription drug program that:
(1) is established or implemented by the office or a contractor of the office under this section; and
(2) uses money from the Indiana prescription drug account established under IC 4-12-8-2;
must be approved by the prescription drug advisory committee.
(e) The office shall apply to the United States Department of Health and Human Services for approval of any waiver necessary under the federal Medicaid program to provide access to prescription drugs for low income senior citizens.
(f) A Medicaid waiver developed under this section must limit a prescription drug program's state expenditures to funding appropriated to the Indiana prescription drug account established under IC 4-12-8-2 from the Indiana tobacco master settlement agreement fund.
(g) The office may not implement a waiver under this section until the office files an affidavit with the governor attesting that the federal waiver applied for under this section is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.
(h) If the office receives a waiver under this section from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (g), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.
As added by P.L.220-2011, SEC.264.

IC 12-15-1.3-7
Expired
(Expired 12-31-2012 by P.L.220-2011, SEC.264.)

IC 12-15-1.3-8
Expired
(Expired 12-31-2012 by P.L.220-2011, SEC.264.)

IC 12-15-1.3-9
Expired
(Expired 12-31-2013 by P.L.220-2011, SEC.264.)

IC 12-15-1.3-10
Expired
(Expired 7-1-2013 by P.L.220-2011, SEC.264.)

IC 12-15-1.3-11
Expired

(Expired 1-1-2013 by P.L.220-2011, SEC.264.)

IC 12-15-1.3-12
Expired
(Expired 12-31-2013 by P.L.220-2011, SEC.264.)

IC 12-15-1.3-13
Application for waiver to provide presumptive eligibility for certain pregnant women; implementation of waiver; rules

Sec. 13. (a) The office shall apply to the United States Department of Health and Human Services for any amendment to the state Medicaid plan or demonstration waiver that is needed to provide for presumptive eligibility for a pregnant woman described in IC 12-15-2-13.

(b) The office may not implement the amendment or waiver until the office files an affidavit with the governor attesting that the amendment or waiver applied for under this section is in effect. The office shall file the affidavit under this subsection not more than five (5) days after the office is notified that the amendment or waiver is approved.

(c) If the office receives approval for the amendment or waiver under this section from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (b), the office shall implement the amendment or waiver not more than sixty (60) days after the governor receives the affidavit.

(d) The office may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.220-2011, SEC.264.

IC 12-15-1.3-14
Expired
(Expired 12-31-2013 by P.L.220-2011, SEC.264.)

IC 12-15-1.3-15
Waiver amendment; emergency placement priority

Sec. 15. (a) As used in this section, "division" refers to the division of disability and rehabilitative services established by IC 12-9-1-1.

(b) As used in this section, "waiver" refers to any waiver administered by the office and the division under section 1915(c) of the federal Social Security Act.

(c) Before October 1, 2011, the office shall apply to the United States Department of Health and Human Services for approval to amend a waiver to set an emergency placement priority for individuals in the following situations:

(1) Death of a primary caregiver where alternative placement in a supervised group living setting:

(A) is not available; or

(B) is determined by the division to be an inappropriate

option.

(2) A situation in which:

(A) the primary caregiver is at least eighty (80) years of age; and

(B) alternate placement in a supervised group living setting is not available or is determined by the division to be an inappropriate option.

(3) There is evidence of abuse or neglect in the current institutional or home placement, and alternate placement in a supervised group living setting is not available or is determined by the division to be an inappropriate option.

(4) There are other health and safety risks, as determined by the division director, and alternate placement in a supervised group living setting is not available or is determined by the division to be an inappropriate option.

(d) The division shall report on a quarterly basis the following information to the division of disability and rehabilitative services advisory council established by IC 12-9-4-2 concerning each Medicaid waiver for which the office has been approved under this section to administer an emergency placement priority for individuals described in this section:

(1) The number of applications for emergency placement priority waivers.

(2) The number of individuals served on the waiver.

(3) The number of individuals on a wait list for the waiver.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this section.

(f) This section expires July 1, 2016.

As added by P.L.220-2011, SEC.264. Amended by P.L.229-2011, SEC.122.

IC 12-15-1.3-16
Expired

(Expired 12-31-2013 by P.L.220-2011, SEC.264.)

IC 12-15-1.3-17
Expired

(Expired 12-31-2013 by P.L.220-2011, SEC.264.)

IC 12-15-1.3-17.5
Budget committee review of state plan amendments, waiver requests, or revisions

Sec. 17.5. The office may not implement any Medicaid state plan amendments, any Medicaid waiver requests, or any revisions to any Medicaid state plan amendments or Medicaid waiver requests unless the office has submitted a written report to the budget committee concerning the implementation of the amendment, waiver, or revision and the budget committee has reviewed the amendment, waiver, or revision.

As added by P.L.205-2013, SEC.188.

IC 12-15-1.5

Chapter 1.5. Voter Registration Services and Medicaid Applications

IC 12-15-1.5-1

Purpose of chapter

Sec. 1. This chapter prescribes the procedures to be followed by a county office in processing:

(1) voter registration applications; and

(2) records concerning an individual's declining to register to vote;

under 42 U.S.C. 1973gg-5(a)(2)(A) and IC 3-7-15.

As added by P.L.12-1995, SEC.121.

IC 12-15-1.5-1.5

Repealed

(Repealed by P.L.81-2005, SEC.35.)

IC 12-15-1.5-2

Designated individual

Sec. 2. A county director may designate an employee of the office as the individual responsible for performing the voter registration duties of the office under this chapter at that county office. The employee designated under this section shall supervise the registration of voters by other employees of the office and shall perform any other registration duty required to be performed by the office under this chapter. Notwithstanding this designation, any employee of the office may perform registration duties in accordance with this chapter.

As added by P.L.12-1995, SEC.121.

IC 12-15-1.5-3

County director responsible if no designated individual

Sec. 3. If a county director does not designate an employee under section 2 of this chapter, the director is the individual responsible for performing the voter registration duties of the office under this chapter at that county office.

As added by P.L.12-1995, SEC.121.

IC 12-15-1.5-4

Transmittal of voter registration application or declination forms

Sec. 4. (a) This section does not apply to a voter registration application or declination to register accepted at a county office during the final five (5) days before the end of a registration period under IC 3-7-13.

(b) As required under 42 U.S.C. 1973gg-5(d)(1), the county director or designated office employee shall transmit a completed voter registration application:

(1) to the county voter registration office in which the individual's residential address (as indicated on the application)

is located; and

(2) not later than five (5) days after the application is accepted at the office.

(c) The county director or designated employee shall transmit the voter registration application (or a separate declination form) on which the individual declined to register to vote by specifically declining to register or by failing to complete the voter registration portion of the application.

(d) The declination must be transmitted:

(1) to the county voter registration office in which the individual's residential address (as indicated on the application) is located; and

(2) not later than five (5) days after the application is accepted at the office.

As added by P.L.12-1995, SEC.121. Amended by P.L.258-2013, SEC.89; P.L.64-2014, SEC.75.

IC 12-15-1.5-5

Transmittal of voter registration application or declination forms; accepted during final five days before end of registration period

Sec. 5. (a) This section applies to a voter registration application or declination to register accepted at a county office during the final five (5) days before the end of a registration period under IC 3-7-13.

(b) As required under 42 U.S.C. 1973gg-5(d)(1), the county director or designated employee shall transmit a copy of the completed voter registration application:

(1) to the circuit court clerk or board of registration of the county in which the individual's residential address (as indicated on the application) is located; and

(2) not later than five (5) days after the application is accepted by the office.

(c) The director or designated employee shall transmit a copy of the voter registration application (or a separate declination form) on which the individual declined to register to vote by specifically declining to register or by failing to complete the voter registration portion of the application.

(d) The declination must be transmitted:

(1) to the circuit court clerk or board of registration of the county in which the individual's residential address (as indicated on the application) is located; and

(2) not later than five (5) days after the application is accepted at the office.

As added by P.L.12-1995, SEC.121.

IC 12-15-1.5-6

Methods for transmittal of applications or declinations

Sec. 6. A county director or designated employee may use any of the following methods to transmit voter registration applications or declinations under section 4 or 5 of this chapter:

(1) Hand delivery to the circuit court clerk or board of

registration.

(2) Delivery by the United States Postal Service, using first class mail.

(3) Electronic transfer, after approval by the co-directors of the election division.

As added by P.L.12-1995, SEC.121. Amended by P.L.2-1996, SEC.241; P.L.3-1997, SEC.437; P.L.2-1998, SEC.38; P.L.258-2013, SEC.90.

IC 12-15-1.5-7
Hand delivery

Sec. 7. If a county director or designated employee transmits registration applications or declinations by hand delivery under section 6(1) of this chapter, the circuit court clerk or board of registration shall provide the director or designated employee with a receipt for the forms. The receipt must state the date and time of delivery, and the printed name and signature of the person who received the forms.

As added by P.L.12-1995, SEC.121.

IC 12-15-1.5-8
Information to be provided to division

Sec. 8. The election division shall provide the division of family resources with a list of the current address and telephone number of the county voter registration office in each county. The division of family resources shall promptly forward the list and each revision of the list to each county office.

As added by P.L.12-1995, SEC.121. Amended by P.L.2-1996, SEC.242; P.L.3-1997, SEC.438; P.L.145-2006, SEC.85; P.L.146-2008, SEC.386; P.L.44-2009, SEC.11; P.L.219-2013, SEC.76.

IC 12-15-1.5-9
Confidentiality of information

Sec. 9. Voter registration information received or maintained under this chapter is confidential.

As added by P.L.12-1995, SEC.121.

IC 12-15-1.5-10
Notice regarding elections

Sec. 10. The co-directors of the election division shall notify each county director of the following:

(1) The scheduled date of each primary, general, municipal, and special election.

(2) The jurisdiction in which the election will be held.

As added by P.L.12-1995, SEC.121. Amended by P.L.2-1996, SEC.243; P.L.3-1997, SEC.439.

IC 12-15-1.5-11
Information to be provided to election division

Sec. 11. The division shall provide the co-directors of the election division with a list stating the following:

(1) The address and telephone number of each county office.

(2) The name of each county director and any employee designated by the director to be responsible for performing voter registration duties under this chapter.

As added by P.L.12-1995, SEC.121. Amended by P.L.2-1996, SEC.244; P.L.3-1997, SEC.440.

IC 12-15-2
Chapter 2. Eligibility

IC 12-15-2-0.5
Provisions not limiting health care assistance

Sec. 0.5. (a) This section applies to a person who qualifies for assistance:

(1) under sections 13 through 16 of this chapter;

(2) under section 6 of this chapter when the person becomes ineligible for medical assistance under IC 12-14-2-5.1 or IC 12-14-2-5.3; or

(3) as an individual with a disability if the person is less than eighteen (18) years of age and otherwise qualifies for assistance.

(b) Notwithstanding any other law, the following may not be construed to limit health care assistance to a person described in subsection (a):

(1) IC 12-8-1.5-12.
(2) IC 12-14-1-1.
(3) IC 12-14-1-1.5.
(4) IC 12-14-2-5.1.
(5) IC 12-14-2-5.2.
(6) IC 12-14-2-5.3.
(7) IC 12-14-2-17.
(8) IC 12-14-2-18.
(9) IC 12-14-2-20.
(10) IC 12-14-2-21.
(11) IC 12-14-2-24.
(12) IC 12-14-2-25.
(13) IC 12-14-2-26.
(14) IC 12-14-2.5.
(15) IC 12-14-5.5.
(16) Section 21 of this chapter.

As added by P.L.46-1995, SEC.31. Amended by P.L.2-2005, SEC.48; P.L.99-2007, SEC.94; P.L.161-2007, SEC.34; P.L.1-2010, SEC.58; P.L.160-2012, SEC.37.

IC 12-15-2-1
"Federal income poverty level" defined

Sec. 1. As used in this chapter, "federal income poverty level" means the nonfarm income official poverty line as determined annually by the federal Office of Management and Budget.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-2
Determination and certification of eligibility and effective date of assistance

Sec. 2. The county office shall determine eligibility and shall certify to the office at the time and in the manner required by the office a list of individuals who have been found eligible to receive

Medicaid and the effective date for the payment of assistance under this chapter. The date must be one (1) month before the first day of the month in which the application or request is made.
As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.110; P.L.5-1993, SEC.123.

IC 12-15-2-3
Individuals eligible; receipt of monthly assistance payments or medical services; eligibility for medical services under aid to dependent children assistance category or under state supplemental assistance program for aged, blind, or disabled

Sec. 3. An individual who:

(1) is receiving monthly assistance payments or medical services; or

(2) would be eligible to receive medical services under the aid to dependent children assistance category or under the state supplemental assistance program for the aged, blind, or disabled;

is eligible to receive Medicaid.
As added by P.L.2-1992, SEC.9.

IC 12-15-2-3.5
Eligibility for aged or disabled

Sec. 3.5. An individual:

(1) who is:

(A) at least sixty-five (65) years of age; or

(B) disabled, as determined by the Supplemental Security Income program; and

(2) whose income and resources do not exceed those levels established by the Supplemental Security Income program;

is eligible to receive Medicaid assistance if the individual's family income does not exceed one hundred percent (100%) of the federal income poverty level for the same size family.
As added by P.L.278-2013, SEC.4.

IC 12-15-2-4
Individuals eligible; eligible under another approved state plan but for plan condition or requirement prohibited in Medicaid program under Social Security Act

Sec. 4. An individual who would be eligible for aid or assistance under one (1) of the other approved state plans except for an eligibility condition or other requirement in the plan that is specifically prohibited in a Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.) is eligible to receive Medicaid.
As added by P.L.2-1992, SEC.9.

IC 12-15-2-5
Individuals eligible; recipients of old age assistance, blind assistance, or disabled assistance payments as of December 31,

1973

Sec. 5. An individual who:

(1) was receiving assistance payments in the old age assistance, blind assistance, or disabled assistance categories as of December 31, 1973; and

(2) continues to remain eligible under state laws and rules;

is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-6

Expired

(Expired 12-31-2013 by P.L.160-2011, SEC.6.)

IC 12-15-2-6.5

Medicaid buy-in program

Sec. 6.5. Notwithstanding section 6 of this chapter, beginning July 1, 2002, an individual who meets the requirements of IC 12-15-41 is eligible for Medicaid.

As added by P.L.287-2001, SEC.6.

IC 12-15-2-7

Individuals eligible; children in families receiving TANF assistance

Sec. 7. A child in a family who receives TANF assistance and is less than twenty-one (21) years of age but not otherwise eligible to be included in section 2 or 3 of this chapter is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9. Amended by P.L.161-2007, SEC.35.

IC 12-15-2-8

Individuals eligible; patients in medical institutions or institutions for mentally retarded

Sec. 8. An individual who:

(1) has been found eligible for Medicaid under section 2, 3, 4, 5, or 6 of this chapter; and

(2) is a patient in an institution for the mentally retarded or who is a patient in a medical institution, as long as the institution or that part of the institution in which the patient resides qualifies as an intermediate care facility for mental retardation under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.);

is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-9

Individuals eligible; patients in institutions for mentally diseased; definition

Sec. 9. (a) As used in this section, "institution for the mentally diseased" includes a facility that meets the requirements and regulations under 42 U.S.C. 1396 et seq.

(b) Except as provided in subsections (c) and (d), an individual

who:

(1) is less than twenty-one (21) years of age or at least sixty-five (65) years of age who has been found to be eligible for Medicaid under section 2, 3, 4, 5, or 6 of this chapter; and

(2) is a patient in an institution for the mentally diseased;

is eligible to receive Medicaid.

(c) Psychiatric services may extend until twenty-two (22) years of age or until treatment has ended, whichever occurs first.

(d) Intermediate care facility services may be provided in a mental health institution.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-10

Individuals eligible; long term care program participants

Sec. 10. An individual who:

(1) is at least sixty-five (65) years of age;

(2) participates in the Indiana long term care program under IC 12-15-39.6; and

(3) satisfies the requirements under IC 12-15-39.6-8;

is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9. Amended by P.L.24-1997, SEC.45.

IC 12-15-2-11

Individuals eligible; qualified pregnant women

Sec. 11. A qualified pregnant woman (as defined in 42 U.S.C. 1396d(n)(1)) is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-12

Individuals eligible; qualified children

Sec. 12. A qualified child (as defined in 42 U.S.C. 1396d(n)(2)) is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-13

Individuals eligible; pregnant women with limited family incomes; income limitations; covered services; duration of assistance

Sec. 13. (a) A pregnant woman:

(1) who is not described in 42 U.S.C. 1396a(a)(10)(A)(i); and

(2) whose family income does not exceed the income level established in subsection (b);

is eligible to receive Medicaid.

(b) A pregnant woman described in this section is eligible to receive Medicaid, subject to subsections (c) and (d) and 42 U.S.C. 1396a et seq., if her family income does not exceed two hundred percent (200%) of the federal income poverty level for the same size family.

(c) Medicaid made available to a pregnant woman described in this section is limited to medical assistance for services related to pregnancy, including prenatal, delivery, and postpartum services, and

to other conditions that may complicate pregnancy.

(d) Medicaid is available to a pregnant woman described in this section for the duration of the pregnancy and for the sixty (60) day postpartum period that begins on the last day of the pregnancy, without regard to any change in income of the family of which she is a member during that time.

(e) The office may apply a resource standard in determining the eligibility of a pregnant woman described in this section. This subsection expires December 31, 2013.

As added by P.L.2-1992, SEC.9. Amended by P.L.46-1995, SEC.32; P.L.119-1997, SEC.1; P.L.218-2007, SEC.9; P.L.278-2013, SEC.5.

IC 12-15-2-13.5

Eligibility for women screened and in need of treatment for breast or cervical cancer

Sec. 13.5. (a) A woman:

(1) who is not eligible for Medicaid under any other section of this chapter;

(2) who is less than sixty-five (65) years of age;

(3) who has been:

(A) screened for breast or cervical cancer through the breast and cervical cancer screening program or by another provider under the federal Breast and Cervical Cancer Mortality Prevention Act of 1990 (42 U.S.C. 300k); and

(B) determined to need treatment for breast or cervical cancer;

(4) who is not otherwise covered under credible coverage (as defined in 42 U.S.C. 300gg(c)); and

(5) whose family income does not exceed two hundred percent (200%) of the federal income poverty level for the same size family;

is eligible for Medicaid.

(b) Medicaid made available to a woman described in subsection (a) is limited to the duration of treatment required for breast or cervical cancer.

As added by P.L.152-2001, SEC.2. Amended by P.L.107-2009, SEC.1.

IC 12-15-2-14

Minors with limited family income

Sec. 14. (a) An individual:

(1) who is less than nineteen (19) years of age;

(2) who is not described in 42 U.S.C. 1396a(a)(10)(A)(I); and

(3) whose family income does not exceed the income level established in subsection (b);

is eligible to receive Medicaid.

(b) An individual described in this section is eligible to receive Medicaid, subject to 42 U.S.C. 1396a et seq., if the individual's family income does not exceed one hundred fifty percent (150%) of the federal income poverty level for the same size family.

(c) The office may apply a resource standard in determining the eligibility of an individual described in this section. This subsection expires December 31, 2013.
As added by P.L.2-1992, SEC.9. Amended by P.L.46-1995, SEC.33; P.L.119-1997, SEC.2; P.L.273-1999, SEC.171; P.L.278-2013, SEC.6.

IC 12-15-2-15
Repealed
(Repealed by P.L.273-1999, SEC.182.)

IC 12-15-2-15.5
Repealed
(Repealed by P.L.273-1999, SEC.182.)

IC 12-15-2-15.6
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 12-15-2-15.7
Repealed
(Repealed by P.L.107-2002, SEC.32.)

IC 12-15-2-15.8
Continuous eligibility to three years of age
Sec. 15.8. After an individual who is less than three (3) years of age is determined to be eligible for Medicaid under section 14 of this chapter, the individual is not required to submit eligibility information more frequently than once in a twelve (12) month period until the child becomes three (3) years of age.
As added by P.L.218-2007, SEC.10.

IC 12-15-2-16
Eligibility of individuals under 18 years of age
Sec. 16. An individual:
(1) who is less than eighteen (18) years of age;
(2) who is described in 42 U.S.C. 1396a(a)(10)(A)(ii); and
(3) who is:
(A) a child in need of services (as defined in IC 31-34-1);
(B) a child placed in the custody of the department of child services under IC 31-35-6-1 (or IC 31-6-5-5 before its repeal); or
(C) a child placed under the supervision or in the custody of the department of child services by an order of the court;
is eligible to receive Medicaid.
As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.111; P.L.5-1993, SEC.124; P.L.1-1997, SEC.60; P.L.145-2006, SEC.86; P.L.146-2008, SEC.387.

IC 12-15-2-16.5

Automatic assignment to medical support and third party medical payments; application

Sec. 16.5. (a) An individual who is applying for Medicaid or receiving Medicaid is considered to have automatically assigned to the state the individual's rights, or the rights of any other person who is dependent upon the individual and eligible for Medicaid, to medical support and other third party payments for medical care for the duration of enrollment in the Medicaid program by the individual or the individual's dependent.

(b) An individual's assignment under subsection (a):

(1) is effective only for services that are reimbursed by Medicaid; and

(2) does not apply to Medicare payments.

As added by P.L.153-2011, SEC.16.

IC 12-15-2-17

Exclusion of resources in determining eligibility for Medicaid; conditions

Sec. 17. (a) This section applies beginning the later of the following:

(1) The date that the office is informed that the United States Department of Health and Human Services has approved Indiana's conversion to 1634 status within the Medicaid program.

(2) January 1, 2014.

(b) The office may apply this section only to the following Medicaid applicants or Medicaid recipients:

(1) An individual whose eligibility for Medicaid does not require a determination of income by the office.

(2) An individual who is at least sixty-five (65) years of age when age is a condition of eligibility.

(3) An individual whose eligibility is being determined on the basis of being blind or disabled, or on the basis of being treated as blind or disabled.

(4) An individual who requests coverage for long term care services and supports for the purpose of being evaluated for an eligibility group under which long term care services or supports are covered, including the following:

(A) Nursing facility services.

(B) Nursing facility level of care services provided in an institution.

(C) Home and community based services.

(D) Home health services.

(E) Personal care services.

(5) An individual applying for Medicare cost sharing assistance.

(c) Except as provided in subsections (d) and (f), if an applicant for or a recipient of Medicaid:

(1) establishes one (1) irrevocable trust that has a value of not more than ten thousand dollars ($10,000), exclusive of interest, and is established for the sole purpose of providing money for

the burial of the applicant or recipient;

(2) enters into an irrevocable prepaid funeral agreement having a value of not more than ten thousand dollars ($10,000); or

(3) owns a life insurance policy with a face value of not more than ten thousand dollars ($10,000) and with respect to which provision is made to pay not more than ten thousand dollars ($10,000) toward the applicant's or recipient's funeral expenses;

the value of the trust, prepaid funeral agreement, or life insurance policy may not be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid.

(d) Subject to subsection (f), if an applicant for or a recipient of Medicaid establishes an irrevocable trust or escrow under IC 30-2-13, the entire value of the trust or escrow may not be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid.

(e) Except as provided in IC 12-15-3-7, if an applicant for or a recipient of Medicaid owns resources described in subsection (c) and the total value of those resources is more than ten thousand dollars ($10,000), the value of those resources that is more than ten thousand dollars ($10,000) may be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid.

(f) In order for a trust, an escrow, a life insurance policy, or a prepaid funeral agreement to be exempt as a resource in determining an applicant's or a recipient's eligibility for Medicaid under this section, the applicant or recipient must designate the office or the applicant's or recipient's estate to receive any remaining amounts after delivery of all services and merchandise under the contract as reimbursement for Medicaid assistance provided to the applicant or recipient after fifty-five (55) years of age. The office may receive funds under this subsection only to the extent permitted by 42 U.S.C. 1396p. The computation of remaining amounts shall be made as of the date of delivery of services and merchandise under the contract and must be the excess, if any, derived from:

(1) growth in principal;

(2) accumulation and reinvestment of dividends;

(3) accumulation and reinvestment of interest; and

(4) accumulation and reinvestment of distributions;

on the applicant's or recipient's trust, escrow, life insurance policy, or prepaid funeral agreement over and above the seller's current retail price of all services, merchandise, and cash advance items set forth in the applicant's or recipient's contract.

As added by P.L.2-1992, SEC.9. Amended by P.L.113-1996, SEC.1; P.L.272-1999, SEC.39; P.L.178-2002, SEC.80; P.L.196-2011, SEC.2; P.L.278-2013, SEC.7.

IC 12-15-2-18

Financial resources; state or federal higher education awards

Sec. 18. Except as provided by federal law, if an individual receives a state or federal higher education award that is paid directly to an approved postsecondary educational institution for the

individual's benefit:

(1) the individual is not required to report that award as income or as a resource of the individual when applying for Medicaid; and

(2) the award may not be considered as income or a resource of the individual in determining initial or continuing eligibility for Medicaid.

As added by P.L.2-1992, SEC.9. Amended by P.L.2-2007, SEC.160.

IC 12-15-2-19

Acquisition of property, income, or resources; notification of county office; alteration or cancellation of assistance; recovery of excess assistance

Sec. 19. (a) If, while receiving Medicaid, a recipient becomes the owner of any:

(1) property;

(2) income; or

(3) resources;

in excess of the amount owned when the recipient's eligibility was determined, the recipient shall immediately notify the county office of the receipt of possession of the property or income.

(b) After an investigation of circumstances under subsection (a), the county office shall recommend to the office the cancellation or alteration of the amount of Medicaid in accordance with the circumstances.

(c) Assistance paid after the recipient acquires possession of:

(1) property;

(2) income; or

(3) resources;

in excess of the recipient's needs is recoverable by the office from the recipient or the estate of the recipient.

(d) However, an eligible individual is not required to notify the division or county office of a Holocaust victim's settlement payment received by the individual. A county office may not cancel or alter the amount of Medicaid received by the individual after the individual's receipt of the payment. Assistance paid after the individual's receipt of the payment is not recoverable by the office from the individual or the estate of the individual.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.112; P.L.5-1993, SEC.125; P.L.128-1999, SEC.20.

IC 12-15-2-20

Conviction of certain offenses and ineligibility for Medicaid assistance time frame; removal for Medicaid fraud; appeal; rules

Sec. 20. (a) A person convicted of an offense under IC 35-43-5 or IC 35-43-10 related to the application for or receipt of Medicaid assistance is ineligible to receive Medicaid assistance under this article for the following time:

(1) One (1) year if the conviction is for the person's first offense.

(2) Two (2) years if the conviction is for the person's second offense.

(3) Ten (10) years if the conviction is for the person's third or subsequent offense.

(b) A person's ineligibility period for Medicaid assistance described in subsection (a) begins either:

(1) on the date the person is sentenced, if the person's sentence does not include incarceration; or

(2) on the date the individual is released from incarceration.

(c) Upon receipt of substantiated evidence that a person has committed fraud concerning the application for or receipt of Medicaid assistance, the office may remove the person from receiving Medicaid assistance for one (1) year. If the office determines that a person receiving Medicaid assistance is to be removed from receiving Medicaid assistance under this subsection, the person may appeal the determination. An appeal under this subsection is subject to IC 4-21.5.

(d) The office may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.46-1995, SEC.36. Amended by P.L.241-2003, SEC.3; P.L.197-2013, SEC.10.

IC 12-15-2-21

Ineligibility due to noncompliance

Sec. 21. Notwithstanding any other provision of this article, a person who is ineligible for assistance under IC 12-14-2 because of noncompliance with IC 12-14-2-21, IC 12-14-2-24, IC 12-14-2-26, or IC 12-14-5.5 is ineligible for Medicaid under this article.

As added by P.L.46-1995, SEC.37.

IC 12-15-2-22

Determination of eligibility; certain equity value in motor vehicle may not be considered

Sec. 22. When the office applies a resource standard to determine an applicant's or a recipient's eligibility for Medicaid under this chapter, the office may not consider five thousand dollars ($5,000) of equity value (as defined in 470 IAC 10.1-3-1) in one (1) motor vehicle belonging to:

(1) the applicant or recipient; or

(2) a member of the applicant's or recipient's family.

As added by P.L.126-1998, SEC.2.

IC 12-15-2-23

Look back; exemption for certain contributions

Sec. 23. (a) This section is effective beginning October 1, 2009.

(b) When the office conducts a look back (as described in 42 U.S.C. 1396p(c)) to determine, for purposes of eligibility, whether an individual improperly transferred assets, the office shall not consider in total one thousand two hundred dollars ($1,200) per year of contributions made by the individual to a:

(1) family member; or
(2) nonprofit organization;
as an improper transfer.
(c) Any rule adopted by the office of the secretary concerning a transfer of property may not apply to a transfer of property that occurred before the effective date of the rule.
As added by P.L.14-2009, SEC.1. Amended by P.L.229-2011, SEC.123.

IC 12-15-2-23.5
Implementation of federal Deficit Reduction Act of 2005
Sec. 23.5. (a) This section is effective beginning October 1, 2009.
(b) In implementing the federal Deficit Reduction Act of 2005, the office shall comply with the following:
(1) A rule adopted may not apply to the transfer of property or another transaction that occurred before the passage of the rule.
(2) The office may not require an individual to return all assets in order to reduce a penalty period for the transfer of assets. The office shall allow a penalty period to be proportionally reduced for a partial return of assets.
As added by P.L.14-2009, SEC.2. Amended by P.L.229-2011, SEC.124.

IC 12-15-2-24
Eligibility; community spouse resource requirements
Sec. 24. (a) This section applies to determining eligibility for an individual who:
(1) resides in a nursing facility or another medical institution; and
(2) has a community spouse.
(b) In determining eligibility for an individual described in subsection (a), the office shall, beginning in calendar year 2006, use the greater of the following community spouse resource allowances:
(1) Nineteen thousand twenty dollars ($19,020), subject to an adjustment described in 42 U.S.C. 1396r-5(g).
(2) The lesser of:
(A) the spousal share computed under 42 U.S.C. 1396r-5(c)(1); or
(B) ninety-five thousand one hundred dollars ($95,100), subject to an adjustment described in 42 U.S.C. 1396r-5g.
(3) An amount established by a court order or an administrative hearing if the community spouse's income is less than the minimum monthly needs allowance established under 42 U.S.C. 1396r-5(d)(3) and an increased amount is necessary to increase the community spouse's income to the minimum monthly needs allowance.
(c) An institutionalized spouse shall not be ineligible for the program because of resources if:
(1) the institutionalized spouse:
(A) establishes that the individual has a right to receive

support from the community spouse; and

(B) assigns to the office the right to receive support from the community spouse; or

(2) the office determines that the denial of eligibility would result in an undue hardship to the institutionalized spouse.

(d) The office shall adopt rules under IC 4-22-2 to calculate the amount of resources necessary to provide income to the community spouse under subsection (b).

As added by P.L.246-2005, SEC.102.

IC 12-15-2-25

Eligibility; retention of income to support community spouse

Sec. 25. (a) This section applies to an individual who:

(1) is eligible for Medicaid;

(2) resides in a nursing facility or another medical institution; and

(3) has a community spouse.

(b) An individual described in subsection (a) is entitled to retain an income allowance for the purpose of supporting a community spouse if:

(1) the community spouse's income is less than the minimum monthly needs allowance established under 42 U.S.C. 1396r-5(d)(3); and

(2) an increased amount is necessary to increase the community spouse's income to the minimum monthly needs allowance.

(c) If either spouse establishes that a higher allowance is needed due to exceptional circumstances resulting in significant financial duress, the minimum monthly needs allowance may be increased after an administrative hearing or by a court order.

(d) The office shall adopt rules under IC 4-22-2 setting forth the manner in which the office will determine the existence of exceptional circumstances resulting in significant financial duress under subsection (c).

As added by P.L.246-2005, SEC.103.

IC 12-15-2-26

Eligibility for Medicare beneficiaries

Sec. 26. (a) This section applies beginning the later of the following:

(1) The date that the office is informed that the United States Department of Health and Human Services has approved Indiana's conversion to 1634 status within the Medicaid program.

(2) January 1, 2014.

(b) As used in this section, "qualified Medicare beneficiary" means an individual defined in 42 U.S.C. 1396d(p)(1).

(c) As used in this section, "qualifying individual" refers to an individual described in 42 U.S.C. 1396a(a)(10)(E)(iv).

(d) As used in this section, "specified low-income Medicare beneficiary" refers to an individual described in 42 U.S.C.

1396a(a)(10)(E)(iii).

(e) The following individuals are eligible for the specified coverage under this section:

(1) A qualified Medicare beneficiary whose:

(A) income does not exceed one hundred fifty percent (150%) of the federal income poverty level; and

(B) resources do not exceed the resource limits established by the office;

is eligible for Medicare Part A and Medicare Part B premiums, coinsurance, and deductibles.

(2) A specified low-income Medicare beneficiary whose:

(A) income does not exceed one hundred seventy percent (170%) of the federal income poverty level; and

(B) resources do not exceed the resource limits set by the office;

is eligible for coverage of Medicare Part B premiums.

(3) A qualifying individual whose:

(A) income does not exceed one hundred eighty-five percent (185%) of the federal income poverty level; and

(B) resources do not exceed the resource limits set by the office;

is eligible for coverage of Medicare Part B premiums.

(f) The office may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.278-2013, SEC.8.

IC 12-15-2.2
Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 12-15-2.3

Chapter 2.3. Presumptive Eligibility for Women With Breast or Cervical Cancer

IC 12-15-2.3-1

Applicability of chapter

Sec. 1. This chapter applies to a woman who is eligible for Medicaid under IC 12-15-2-13.5.

As added by P.L.152-2001, SEC.3.

IC 12-15-2.3-2

"Qualified entity" defined

Sec. 2. As used in this chapter, "qualified entity" means an entity that:

(1) is eligible to receive payments and provide items and services under this article;

(2) provides outpatient hospital services, rural health clinic services, and any other ambulatory services offered by a rural health clinic, or clinic services furnished by or under the direction of a licensed physician; and

(3) meets all other requirements set forth in 42 U.S.C. 1920B.

As added by P.L.152-2001, SEC.3.

IC 12-15-2.3-3

Qualified entities to establish eligibility

Sec. 3. A qualified entity may establish the presumptive eligibility of a woman described in section 1 of this chapter.

As added by P.L.152-2001, SEC.3.

IC 12-15-2.3-4

Identity of qualified entities

Sec. 4. The office shall consider the following to be qualified entities:

(1) A disproportionate share provider under IC 12-15-16-1(a) or IC 12-15-16-1(b).

(2) A federally qualified health clinic.

(3) A rural health clinic.

As added by P.L.152-2001, SEC.3.

IC 12-15-2.3-5

Qualified entities provided with application forms and information

Sec. 5. The office shall provide each qualified entity with the following:

(1) Application forms for Medicaid.

(2) Information on how to assist a woman described in section 1 of this chapter in completing and filing the application forms.

As added by P.L.152-2001, SEC.3.

IC 12-15-2.3-6

Period during which services provided

Sec. 6. The office shall provide Medicaid services to a woman described in section 1 of this chapter during a period that:

(1) begins on the date on which a qualified entity determines on the basis of preliminary information that the woman is eligible for Medicaid under IC 12-15-2-13.5; and

(2) ends on the earlier of the following:

(A) The date on which a determination is made by a representative of the county office with respect to the eligibility of the woman under IC 12-15-2-13.5.

(B) The last day of the month following the month in which the qualified entity makes the determination described in subdivision (1).

As added by P.L.152-2001, SEC.3.

IC 12-15-2.3-7
Woman's eligibility determined by qualified entity

Sec. 7. A woman described in section 1 of this chapter may only have a presumptive eligibility determination made by an entity described in section 2 of this chapter.

As added by P.L.152-2001, SEC.3.

IC 12-15-2.3-8
Actions taken after establishment of eligibility

Sec. 8. A qualified entity that determines that a woman described in section 1 of this chapter is presumptively eligible for Medicaid shall do the following:

(1) Notify the office of the determination within five (5) working days after the date on which the determination is made.

(2) Inform the woman at the time a determination is made that an application for Medicaid is required to be made at the county office in the county where the woman resides or an enrollment center (as provided in IC 12-15-4-1) not later than the last day of the month following the month during which the determination is made.

As added by P.L.152-2001, SEC.3.

IC 12-15-2.3-9
Completion of application

Sec. 9. If a woman described in section 1 of this chapter is determined to be presumptively eligible for Medicaid under this chapter, the woman must complete an application for Medicaid as provided in IC 12-15-4 not later than the last day of the month following the month during which the determination is made.

As added by P.L.152-2001, SEC.3.

IC 12-15-2.3-10
Expired

(Expired 12-31-2013 by P.L.278-2013, SEC.9.)

IC 12-15-2.3-11

Reimbursement for care during presumptive eligibility

Sec. 11. If a woman described in section 1 of this chapter is:

(1) determined to be presumptively eligible for Medicaid under this chapter; and

(2) subsequently determined not to be eligible for Medicaid;

a qualified entity under section 4(1) or 4(2) of this chapter that determined that the woman was presumptively eligible for Medicaid shall reimburse the office for all funds expended by the office in paying for care for the woman during the woman's period of presumptive eligibility.

As added by P.L.152-2001, SEC.3.

IC 12-15-2.3-12

Rules

Sec. 12. The office shall adopt rules under IC 4-22-2 to implement this chapter, including rules that may impose additional requirements for qualified entities that are consistent with federal regulations.

As added by P.L.152-2001, SEC.3.

IC 12-15-2.3-13

Annual appropriation to provide services

Sec. 13. There is annually appropriated to the office of the secretary of family and social services from the state general fund an amount sufficient to provide services to those individuals eligible for Medicaid under IC 12-15-2-13.5 and this chapter.

As added by P.L.16-2009, SEC.18.

IC 12-15-2.5

Chapter 2.5. Eligibility of Refugees, Lawful Permanent Residents, and Illegal Aliens for Medicaid Assistance

IC 12-15-2.5-1

Refugees

Sec. 1. A person who is classified as a refugee (as defined in 8 U.S.C. 1101) is eligible for all services under this article as if the person were classified as a citizen of the United States.

As added by P.L.46-1995, SEC.38.

IC 12-15-2.5-2

Lawful permanent residents

Sec. 2. A person who is a lawful permanent resident is eligible for Medicaid assistance under this article for a period of one (1) year.

As added by P.L.46-1995, SEC.38. Amended by P.L.161-2007, SEC.36.

IC 12-15-2.5-3

Illegal aliens

Sec. 3. A person who is in the United States without permission of the United States Citizenship and Immigration Services is not entitled to receive assistance under this article.

As added by P.L.46-1995, SEC.38. Amended by P.L.1-2007, SEC.121.

IC 12-15-2.5-4

Child born in United States

Sec. 4. A child who:

(1) is born in the United States to a person described in section 2 or 3 of this chapter; and

(2) otherwise meets the requirements for assistance under this article;

is eligible to receive Medicaid under this article.

As added by P.L.46-1995, SEC.38.

IC 12-15-2.5-5

Violation of federal law

Sec. 5. Any provision of this chapter that violates a federal law or federal regulation is void.

As added by P.L.46-1995, SEC.38.

IC 12-15-3

Chapter 3. Ineligibility; Financial Limitations

IC 12-15-3-0.5

Applicability of chapter

Sec. 0.5. This chapter does not apply to an individual participating in the Medicaid buy-in program beginning July 1, 2002, established under IC 12-15-41.

As added by P.L.287-2001, SEC.7.

IC 12-15-3-1

Expired

(Expired 12-31-2013 by P.L.278-2013, SEC.10.)

IC 12-15-3-1.5

Eligibility of aged, blind, disabled; spouse assets

Sec. 1.5. (a) This section applies beginning the later of the following:

(1) The date that the office is informed that the United States Department of Health and Human Services has approved Indiana's conversion to 1634 status within the Medicaid program.

(2) January 1, 2014.

(b) The office shall determine eligibility for a Medicaid applicant or Medicaid recipient who is aged, blind, or disabled under IC 12-15-2-3.5.

(c) If an individual:

(1) resides in a nursing facility or another medical institution; and

(2) has a spouse who does not reside in a nursing facility or another medical institution;

the total cash value of money, stock, bonds, and life insurance that may be owned by the couple to be eligible for Medicaid is determined under IC 12-15-2-24.

As added by P.L.278-2013, SEC.11.

IC 12-15-3-2

Expired

(Expired 12-31-2013 by P.L.278-2013, SEC.12.)

IC 12-15-3-3

Expired

(Expired 12-31-2013 by P.L.278-2013, SEC.13.)

IC 12-15-3-4

Total cash value limitations on ownership of money, stock, bonds, and life insurance; parent and parents defined

Sec. 4. For purposes of sections 2 and 3 of this chapter, except for an applicant or a recipient who is determined to be eligible for home and community based services under 42 U.S.C. 1396 et seq., the

applicant's or recipient's parent or parents are the parent or parents with whom the applicant or recipient resides.
As added by P.L.2-1992, SEC.9.

IC 12-15-3-5
Limitation on total cash value of money, stocks, bonds, and life insurance owned by applicants or recipients not described in IC 12-15-3-1

Sec. 5. Except as provided in section 7 of this chapter, the office may set the total cash value of money, stock, bonds, and life insurance that an applicant for or a recipient of Medicaid may own without being ineligible for Medicaid in cases not described in section 1 of this chapter.
As added by P.L.2-1992, SEC.9. Amended by P.L.196-2011, SEC.6.

IC 12-15-3-6
Purchase of qualified long term care insurance policy; computation under this chapter

Sec. 6. A computation under this chapter concerning an individual who purchases a qualified long term care insurance policy under IC 12-15-39.6 must take into consideration the asset disregard established under IC 12-15-39.6-10.
As added by P.L.2-1992, SEC.9. Amended by P.L.24-1997, SEC.47; P.L.1-2006, SEC.187.

IC 12-15-3-7
Effect of certain applicants' assignment of life insurance benefits to state on applicants' Medicaid eligibility

Sec. 7. (a) As used in this section, "value" includes the following:
(1) The face value of a life insurance policy.
(2) The cash value of a life insurance policy.

(b) The value of a life insurance policy that is in force and owned by an applicant or a recipient who is at least fifty-five (55) years of age or permanently institutionalized may not be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid if the applicant or recipient:
(1) makes an irrevocable election to name the state as a beneficiary of the life insurance policy for an amount that is not greater than:
(A) Medicaid benefits provided to the recipient under IC 12-15-5 or IC 12-14-17; plus
(B) premiums or expenses paid by the office to the insurer that issued the life insurance policy; or
(2) collaterally assigned the life insurance policy to the state under a written agreement submitted to and recorded by the insurer that issued the life insurance policy.

(c) Any designation of the state as an irrevocable beneficiary or any collateral assignment in favor of the state is void if the application for Medicaid benefits is not approved.
As added by P.L.196-2011, SEC.7.

IC 12-15-4

Chapter 4. Application for Assistance

IC 12-15-4-1

Applying for Medicaid; enrollment centers; duties of authorized workers; final determination; submitting application

Sec. 1. (a) An application or a request for Medicaid for an individual must be made in the manner required by the office:

(1) at enrollment centers specified by the office; or

(2) through the United States mail, as described in subsection (h), if the individual has a developmental disability.

(b) Enrollment centers:

(1) shall be located at each county office; and

(2) may be located at other locations including the following:

(A) A hospital licensed under IC 16-21.

(B) The office of a provider who is eligible to receive payments under this article.

(C) A public or private elementary or secondary school.

(D) A day care center licensed under IC 12-17.2.

(E) The county health department.

(F) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).

(G) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).

(c) An entity described in subsection (b) other than the county office must enter into an agreement with the office for authorization to serve as an enrollment center where individuals may apply for Medicaid.

(d) One (1) or more authorized workers at each enrollment center may:

(1) accept applications for Medicaid;

(2) conduct interviews with applicants; and

(3) accept applications for services under a Medicaid waiver by an individual who has a developmental disability;

during hours and days of the week agreed upon by the office and the enrollment center.

(e) The office shall provide each enrollment center with the materials and training needed by the enrollment center to comply with this section.

(f) An enrollment center shall provide:

(1) each application taken by the enrollment center; and

(2) any accompanying materials;

to the county office located in the same county as the enrollment center at least one (1) time each week by any reasonable means. Except as provided in subsection (g), the county office staff shall make the final determination of an applicant's eligibility for Medicaid.

(g) The office shall make the final determination of eligibility of an individual who has a developmental disability to receive services under a Medicaid waiver.

(h) An individual who has a developmental disability may submit to the office through the United States mail an application to receive services under a Medicaid waiver.

(i) The office shall make available:

(1) on the Internet;

(2) at an enrollment center; and

(3) through the United States mail;

an application form for an individual who has a developmental disability to receive services under a Medicaid waiver.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.113; P.L.5-1993, SEC.126; P.L.58-1998, SEC.9; P.L.184-2003, SEC.6.

IC 12-15-4-2

TANF assistance recipients; necessity of making Medicaid application

Sec. 2. An individual who is receiving monthly assistance payments in the TANF category is not required to make an application for Medicaid.

As added by P.L.2-1992, SEC.9. Amended by P.L.161-2007, SEC.37.

IC 12-15-4-3

Records of applicants' circumstances and other information

Sec. 3. Whenever the county office receives an application or a request for Medicaid, a record shall promptly be made of the following:

(1) The circumstances of the applicant to ascertain the facts supporting the application or request made under the terms of the Medicaid program.

(2) Other information required by the office.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.114; P.L.5-1993, SEC.127.

IC 12-15-4-4

Grant of assistance; eligibility requirements

Sec. 4. Medicaid shall be granted to an applicant who is eligible for assistance under IC 12-15-2 and who meets the following requirements:

(1) Has made an application or a request for Medicaid in the manner required by the office or for whom an application or a request has been made.

(2) Is a resident of Indiana, including a resident temporarily absent from Indiana, and minor children who are under the care, supervision, and control of a parent or other relative who is a resident of Indiana.

(3) Has not made a transfer of property for the purpose of making the applicant eligible for Medicaid.

(4) Does not have a spouse having sufficient income to furnish medical assistance, or a parent having sufficient income to furnish medical assistance if the applicant is a child who is blind or has a disability and who is less than eighteen (18) years of

age.

As added by P.L.2-1992, SEC.9. Amended by P.L.67-2000, SEC.2; P.L.99-2007, SEC.95.

IC 12-15-4-5

Outreach strategies

Sec. 5. The office shall implement outreach strategies that build on community resources.

As added by P.L.273-1999, SEC.173.

IC 12-15-5

Chapter 5. Services Provided

IC 12-15-5-1

Services and supplies provided; exceptions

Sec. 1. Except as provided in IC 12-15-2-12, IC 12-15-6, and IC 12-15-21, the following services and supplies are provided under Medicaid:

(1) Inpatient hospital services.

(2) Nursing facility services.

(3) Physician's services, including services provided under IC 25-10-1 and IC 25-22.5-1.

(4) Outpatient hospital or clinic services.

(5) Home health care services.

(6) Private duty nursing services.

(7) Physical therapy and related services.

(8) Dental services.

(9) Prescribed laboratory and x-ray services.

(10) Prescribed drugs and pharmacist services.

(11) Eyeglasses and prosthetic devices.

(12) Optometric services.

(13) Diagnostic, screening, preventive, and rehabilitative services.

(14) Podiatric medicine services.

(15) Hospice services.

(16) Services or supplies recognized under Indiana law and specified under rules adopted by the office.

(17) Family planning services except the performance of abortions.

(18) Nonmedical nursing care given in accordance with the tenets and practices of a recognized church or religious denomination to an individual qualified for Medicaid who depends upon healing by prayer and spiritual means alone in accordance with the tenets and practices of the individual's church or religious denomination.

(19) Services provided to individuals described in IC 12-15-2-8 and IC 12-15-2-9.

(20) Services provided under IC 12-15-34 and IC 12-15-32.

(21) Case management services provided to individuals described in IC 12-15-2-11 and IC 12-15-2-13.

(22) Any other type of remedial care recognized under Indiana law and specified by the United States Secretary of Health and Human Services.

(23) Examinations required under IC 16-41-17-2(a)(10).

As added by P.L.2-1992, SEC.9. Amended by P.L.24-1997, SEC.48; P.L.149-2001, SEC.1; P.L.274-2013, SEC.1.

IC 12-15-5-2

Necessity of federal financial participation

Sec. 2. Medicaid does not include a service or supply for which

federal financial participation is not available.
As added by P.L.2-1992, SEC.9.

IC 12-15-5-3
Repealed
(Repealed by P.L.161-2007, SEC.40.)

IC 12-15-5-5
Office may provide drug coverage; requirements for drug coverage in managed care
Sec. 5. (a) The office may provide a prescription drug benefit to a Medicaid recipient in the Medicaid risk based managed care program.
(b) If the office provides a prescription drug benefit to a Medicaid recipient in the Medicaid risk based managed care program:
(1) the office shall develop a procedure and provide the recipient's risk based managed care provider with information concerning the recipient's prescription drug utilization for the risk based managed care provider's case management program; and
(2) the provisions of IC 12-15-35.5 apply.
(c) If the office does not provide a prescription drug benefit to a Medicaid recipient in the Medicaid risk based managed care program, a Medicaid managed care organization shall provide coverage and reimbursement for outpatient single source legend drugs subject to IC 12-15-35-46, IC 12-15-35-47, and IC 12-15-35.5.
As added by P.L.231-1999, SEC.1. Amended by P.L.101-2005, SEC.1.

IC 12-15-5-6
Repealed
(Repealed by P.L.229-2011, SEC.272.)

IC 12-15-5-8
Maintenance drugs; prescriptions; Internet based pharmacies
Sec. 8. (a) As used in this section, "maintenance drug" means a medication that is dispensed under a single prescription for a period of not less than one hundred eighty (180) days, excluding authorized refills, for the ongoing treatment of a chronic medical condition or disease or congenital condition or disorder.
(b) The office may designate:
(1) a mail order pharmacy;
(2) an Internet based pharmacy (as defined in IC 25-26-18-1);
(3) a pharmacy that agrees to sell a maintenance drug at the same price as a mail order or an Internet based pharmacy; or
(4) all the pharmacies listed in subdivisions (1) through (3);
through which a recipient may obtain a maintenance drug.
(c) If the office makes a designation under subsection (b), a managed care organization that has a contract with the office under IC 12-15-12 is not required to use a pharmacy that is designated

under subsection (b).

(d) If a Medicaid recipient's physician prescribes a maintenance prescription drug, the Medicaid recipient may purchase the maintenance prescription drug from a pharmacy that is designated under subsection (b).

(e) The office shall apply to amend the state Medicaid plan if the office determines that an amendment is necessary to carry out this section.

(f) The office may require a recipient to pay the maximum copayment allowable under federal law if the recipient obtains a maintenance drug from a pharmacy other than a pharmacy described in subsection (b).

As added by P.L.246-2005, SEC.105.

IC 12-15-5-9

Provision of self-directed care options

Sec. 9. The office shall have self-directed care options and services available for an eligible individual who:

(1) is a Medicaid waiver recipient; and

(2) chooses self-directed care services.

As added by P.L.47-2009, SEC.3.

IC 12-15-5-9.2

Coverage for care related to cancer clinical trials

Sec. 9.2. (a) As used in this section, "care method" means the use of a particular drug or device in a particular manner.

(b) As used in this section, "clinical trial" means a Phase I, II, III, or IV research study:

(1) that is conducted:

(A) using a particular care method to prevent, diagnose, or treat a cancer for which:

(i) there is no clearly superior, noninvestigational alternative care method; and

(ii) available clinical or preclinical data provides a reasonable basis from which to believe that the care method used in the research study is at least as effective as any noninvestigational alternative care method;

(B) in a facility where personnel providing the care method to be followed in the research study have:

(i) received training in providing the care method;

(ii) expertise in providing the type of care required for the research study; and

(iii) experience providing the type of care required for the research study to a sufficient volume of patients to maintain expertise; and

(C) to scientifically determine the best care method to prevent, diagnose, or treat the cancer; and

(2) that is approved or funded by one (1) of the following:

(A) A National Institutes of Health institute.

(B) A cooperative group of research facilities that has an

established peer review program that is approved by a National Institutes of Health institute or center.

(C) The federal Food and Drug Administration.

(D) The United States Department of Veterans Affairs.

(E) The United States Department of Defense.

(F) The institutional review board of an institution located in Indiana that has a multiple project assurance contract approved by the National Institutes of Health Office for Protection from Research Risks as provided in 45 CFR 46.103.

(G) A research entity that meets eligibility criteria for a support grant from a National Institutes of Health center.

(c) As used in this section, "routine care cost" means the cost of medically necessary services related to the care method that is under evaluation in a clinical trial. The term does not include the following:

(1) The drug or device that is under evaluation in a clinical trial.

(2) Items or services that are:

(A) provided solely for data collection and analysis and not in the direct clinical management of an individual enrolled in a clinical trial;

(B) customarily provided at no cost by a research sponsor to an individual enrolled in a clinical trial; or

(C) provided solely to determine eligibility of an individual for participation in a clinical trial.

(d) The Medicaid program must provide coverage for routine care costs that are incurred in the course of a clinical trial if the Medicaid program would provide coverage for the same routine care costs not incurred in a clinical trial.

(e) The coverage that must be provided under this section is subject to the terms, conditions, restrictions, exclusions, and limitations that apply generally under the Medicaid program, including terms, conditions, restrictions, exclusions, or limitations that apply to health care services rendered by participating providers and nonparticipating providers.

(f) This section does not do any of the following:

(1) Require the Medicaid program to provide coverage for clinical trial services rendered by a participating provider.

(2) Prohibit the Medicaid program from providing coverage for clinical trial services rendered by a participating provider.

(3) Require reimbursement for services that are rendered in a clinical trial by a nonparticipating provider at the same rate of reimbursement that would apply to the same services rendered by a participating provider.

As added by P.L.109-2009, SEC.2.

IC 12-15-5-10

Care available for individuals receiving Medicaid waiver services; eligibility not affected by receipt of services

Sec. 10. (a) An individual who receives Medicaid services through a Medicaid waiver shall receive the following:

(1) The development of a care plan addressing the individual's needs.
(2) Advocacy on behalf of the individual's interests.
(3) The monitoring of the quality of community and home care services provided to the individual.
(4) Information and referral services concerning community and home care services if the individual is eligible for these services.

(b) The use by or on behalf of an individual receiving Medicaid waiver services of any of the following services or devices does not make the individual ineligible for services under a Medicaid waiver:
(1) Skilled nursing assistance.
(2) Supervised community and home care services, including skilled nursing supervision.
(3) Adaptive medical equipment and devices.
(4) Adaptive nonmedical equipment and devices.

As added by P.L.47-2009, SEC.4.

IC 12-15-5-11
Reimbursement for telehealth services and telemedicine services for certain providers; implementation; rules

Sec. 11. (a) As used in this section, "telehealth services" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, and information across a distance.

(b) As used in this section, "telemedicine services" means a specific method of delivery of services, including medical exams and consultations and behavioral health evaluations and treatment, including those for substance abuse, using videoconferencing equipment to allow a provider to render an examination or other service to a patient at a distant location. The term does not include the use of the following:
(1) A telephone transmitter for transtelephonic monitoring.
(2) A telephone or any other means of communication for the consultation from one (1) provider to another provider.

(c) The office shall reimburse a Medicaid provider who is licensed as a home health agency under IC 16-27-1 for telehealth services.

(d) The office shall reimburse the following Medicaid providers for telemedicine services:
(1) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).
(2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).

(e) The office shall reimburse the following Medicaid providers for telemedicine services regardless of the distance between the provider and the patient:
(1) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).
(2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).
(3) A community mental health center certified under IC 12-21-2-3(5)(C).
(4) A critical access hospital that meets the criteria under 42

CFR 485.601 et seq.

(f) The office shall, not later than December 1, 2013, file any Medicaid state plan amendment with the United States Department of Health and Human Services necessary to implement and administer this section, including an amendment to eliminate the current twenty (20) mile distance restriction.

(g) The office shall implement any part of this section that is approved by the United States Department of Health and Human Services.

(h) The office may adopt rules under IC 4-22-2 necessary to implement and administer this section.

As added by P.L.204-2013, SEC.3.

IC 12-15-5-12

"Child"; reimbursement for specialized or nonstandard wheelchairs; prior authorization

Sec. 12. (a) As used in this section, "child" includes any of the following:

(1) An individual who is less than eighteen (18) years of age.

(2) An individual who is at least eighteen (18) years of age and either:

(A) continues to be enrolled in a kindergarten through grade 12 school; or

(B) has a developmental disability.

(b) The office shall reimburse a nursing facility for a specialized or nonstandard wheelchair for a child recipient who resides in a nursing facility at a rate outside the nursing facility's per diem payment for nursing facility services, regardless of whether the child recipient is determined by the office to be rehabilitative.

(c) The office may require prior authorization for reimbursement under this section.

As added by P.L.108-2014, SEC.1.

IC 12-15-6

Chapter 6. Individual Contributions

IC 12-15-6-1

Enrollment fees, premiums, or other charges as condition of eligibility

Sec. 1. Except as provided in section 2 of this chapter, and beginning July 1, 2002, except as provided in IC 12-15-41, an enrollment fee, a premium, or a similar charge may not be imposed as a condition of an individual's eligibility for Medicaid.

As added by P.L.2-1992, SEC.9. Amended by P.L.287-2001, SEC.8.

IC 12-15-6-2

Copayment; application for certain services

Sec. 2. The office shall apply a copayment for certain types of Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-6-3

Copayment; time for making

Sec. 3. (a) A copayment shall be made by the recipient of Medicaid upon receipt of assistance. If a recipient of Medicaid does not make the copayment, the office may not require the provider to collect the copayment. However, a provider may not voluntarily waive the copayment by the recipient under this section.

(b) The office may adopt rules under IC 4-22-2 to prescribe that the copayment amount is not deducted from the reimbursement to the provider for services provided by the provider if a recipient of Medicaid does not make the copayment.

As added by P.L.2-1992, SEC.9. Amended by P.L.114-1996, SEC.1.

IC 12-15-6-4

Services to which copayment applies; exceptions

Sec. 4. A copayment applies to all services except the following:

(1) Services furnished to individuals less than eighteen (18) years of age.

(2) Services furnished to pregnant women if the services relate to the pregnancy or to any other medical condition that might complicate the pregnancy.

(3) Services furnished to individuals who are inpatients in hospitals, nursing facilities, including intermediate care facilities for the mentally retarded, and other medical institutions.

(4) Emergency services as defined by regulations adopted by the Secretary of the United States Department of Health and Human Services.

(5) Services furnished to individuals by health maintenance organizations in which the individuals are enrolled.

(6) Family planning services and supplies described in 42 U.S.C. 1396d(a)(4)(C).

(7) Physical examinations to determine the need for medical

services.
As added by P.L.2-1992, SEC.9.

IC 12-15-6-5
Provider to charge maximum copayment allowable
Sec. 5. A provider shall charge the maximum copayment allowable under federal statute or regulation.
As added by P.L.2-1992, SEC.9.

IC 12-15-6-6
Repealed
(Repealed by P.L.278-1993(ss), SEC.29.)

IC 12-15-6-7
Repealed
(Repealed by P.L.278-1993(ss), SEC.29.)

IC 12-15-7

Chapter 7. Personal Allowance

IC 12-15-7-1

Persons entitled to allowance; receipt of care in hospital or nursing home; amount of allowance

Sec. 1. Subject to section 2 of this chapter, an individual eligible to receive Medicaid who is not living in the individual's own home but is receiving care in a:

(1) hospital; or

(2) nursing facility;

may retain from the individual's income a personal allowance in an amount to be established by the office.

As added by P.L.2-1992, SEC.9.

IC 12-15-7-2

Amount of allowance; permissible range

Sec. 2. Fifty-two dollars ($52) monthly may be exempt from income eligibility consideration.

As added by P.L.2-1992, SEC.9. Amended by P.L.272-1999, SEC.40; P.L.294-2001, SEC.3.

IC 12-15-7-3

Use of allowance

Sec. 3. The money described in section 2 of this chapter may be exclusively used by the recipient for the recipient's personal needs.

As added by P.L.2-1992, SEC.9.

IC 12-15-7-4

Individuals employed as part of habilitation plan or working in sheltered workshop or day activity center; amount of allowance

Sec. 4. The personal allowance for one (1) month described in sections 1, 2, and 3 of this chapter for an individual whose employment is part of the recipient's individual habilitation plan or who is working in a sheltered workshop or day activity center is the amount that a person would be entitled to retain under sections 1, 2, and 3 of this chapter plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for the month; minus

(2) the sum of:

(A) sixteen dollars ($16);

(B) the amount withheld from the recipient's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the Federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); and

(C) transportation expenses for the month.

As added by P.L.2-1992, SEC.9.

IC 12-15-7-5

Retention of amount equal to individual's state and local income

tax liability; monthly limitation; exemption from income eligibility consideration; use of amount retained

Sec. 5. (a) In addition to the amount that may be retained as a personal allowance under this chapter, an individual is allowed to retain an amount equal to the individual's state and local income tax liability.

(b) The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which the month occurs. This amount is exempt from income eligibility consideration by the office.

(c) The amount retained under this section must be used by the individual to pay any state or local income taxes owed.

As added by P.L.2-1992, SEC.9.

IC 12-15-7-6

Payment calculation for federal SSI recipient; exemption from income eligibility consideration

Sec. 6. (a) If an individual described in section 1 of this chapter:

(1) is a recipient of assistance under the federal Supplemental Security Income (SSI) program; and

(2) receives an income that is less than the amount described in section 2 of this chapter;

the office shall pay to the individual an amount equal to the difference between the amount of the monthly allowance described in section 2 of this chapter and the amount of income, including assistance under the federal Supplemental Security Income (SSI) program received by the individual.

(b) Money paid to an individual under subsection (a) is exempt from income eligibility consideration.

As added by P.L.294-2001, SEC.4. Amended by P.L.26-2003, SEC.1.

IC 12-15-8
Chapter 8. Liens

IC 12-15-8-1
Recipient asserting claim against another person for injury or illness resulting from negligence or act of other person; lien against other person; amount of lien

Sec. 1. Whenever:

(1) the office pays medical expenses for or on behalf of a person who has been injured or has suffered an illness or a disease as a result of the negligence or act of another person; and

(2) the injured or diseased person asserts a claim against the other person for damages resulting from the injury, illness, or disease;

on any recovery under the claim, whether by judgment, compromise, or settlement, the office has a lien against the other person in the amount paid by the office to the extent of the other person's liability for the medical expenses.

As added by P.L.2-1992, SEC.9. Amended by P.L.245-1999, SEC.2.

IC 12-15-8-2
Recipient asserting claim against insurer; lien for medical expenses paid or for medical services rendered; amount

Sec. 2. Whenever:

(1) the office pays for medical expenses or renders medical services on behalf of a person who has been injured or has suffered an illness or a disease; and

(2) the person asserts a claim against an insurer as a result of that person's injury, illness, or disease;

the office has a lien against the insurer, to the extent of the amount paid by the office, on any recovery from the insurer.

As added by P.L.2-1992, SEC.9.

IC 12-15-8-3
Perfection of lien

Sec. 3. A lien under this chapter is not effective unless the office takes the following actions before the party alleged to be liable has concluded a final settlement with the injured, ill, or diseased person or the person's attorney or legal representative as compensation for the person's injury, illness, or disease:

(1) Filing in the Marion County circuit court a written notice stating the following:

(A) Notice of the eligibility of the injured, ill, or diseased person for Medicaid.

(B) The name and address of the injured, ill, or diseased person.

(C) The name of the person, firm, limited liability company, or corporation alleged to be liable to the injured, ill, or diseased person.

(2) Sending to the person, firm, limited liability company, or

corporation alleged to be liable, by registered or certified mail, a copy of the notice required by subdivision (1), with a statement of the date of filing of the notice.

As added by P.L.2-1992, SEC.9. Amended by P.L.8-1993, SEC.182.

IC 12-15-8-4

Notice; person for whom medical expenses paid, insurance carrier, and attorney for injured or diseased person

Sec. 4. In addition to the requirements of section 3 of this chapter, the office shall send a copy of the notice required by section 3(1) of this chapter to the following persons or entities if the appropriate names and addresses can be determined:

(1) The injured, ill, or diseased person for whom the office has paid medical expenses.

(2) An insurance carrier that may be ultimately liable.

(3) An attorney for the injured or diseased person.

As added by P.L.2-1992, SEC.9.

IC 12-15-8-5

Itemized statement of medical expenses paid; sending statement to person for whom expenses paid and to attorney for injured or diseased person; time

Sec. 5. Not more than twenty-one (21) days after the filing of the notice required under section 3(1) of this chapter, the office shall send to persons or entities listed in section 4(1) and 4(3) of this chapter an itemized statement of the medical expenses paid by the office for which the office seeks to perfect a lien.

As added by P.L.2-1992, SEC.9.

IC 12-15-8-6

Actions on behalf of injured, ill, or diseased person and to perfect lien; conditions

Sec. 6. (a) The office may, on behalf of an injured, an ill, or a diseased person and to perfect a lien provided by this chapter, initiate and prosecute an action or a proceeding against a:

(1) person;

(2) firm;

(3) corporation; or

(4) limited liability company;

who may be liable to the injured, ill, or diseased person.

(b) The office may initiate an action or a proceeding under subsection (a) only if the following occurs:

(1) The injured, ill, or diseased person has not initiated legal proceedings against the person, firm, limited liability company, or corporation alleged to be liable.

(2) The time remaining under the statute of limitations for the action or proceeding is not more than six (6) months.

As added by P.L.2-1992, SEC.9. Amended by P.L.8-1993, SEC.183.

IC 12-15-8-7

Recovery under lien; payment of pro rata share of costs and expenses incurred in asserting claim

Sec. 7. If the office recovers money under a lien established by this chapter and the recovery is the result of a claim asserted by an injured, an ill, or a diseased person, the office shall pay the office's pro rata share of all costs and reasonably necessary expenses incurred in asserting the claim, including the following:

(1) Deposition costs.

(2) Witness fees.

(3) Other costs and expenses.

As added by P.L.2-1992, SEC.9.

IC 12-15-8-8

Attorney's fees

Sec. 8. (a) This section does not apply to a lien on a Medicaid recipient's real property under IC 12-15-8.5.

(b) This section applies only to a lien on a recovery under section 1 or section 2 of this chapter.

(c) The office shall pay attorney's fees in the amount of one (1) of the following:

(1) Twenty-five percent (25%) of the office's recovery under the lien if the claim was collected without initiating legal proceedings.

(2) Thirty-three and one-third percent (33 1/3%) of the office's recovery under the lien if the claim was collected by initiating legal proceedings.

As added by P.L.2-1992, SEC.9. Amended by P.L.224-2003, SEC.81; P.L.236-2007, SEC.1.

IC 12-15-8-9

Waiver of right to lien

Sec. 9. (a) The office may waive the office's right to assert a lien under this chapter.

(b) If the office does waive the right to a lien, the office is not liable for a pro rata share of costs under section 7 of this chapter.

As added by P.L.2-1992, SEC.9.

IC 12-15-8.5

Chapter 8.5. Liens on Real Property of Medicaid Recipients

IC 12-15-8.5-1

"Medical institution"

Sec. 1. As used in this chapter, "medical institution" means any of the following:

(1) A hospital.

(2) A nursing facility.

(3) An intermediate care facility for the mentally retarded.

As added by P.L.178-2002, SEC.81.

IC 12-15-8.5-2

Lien for Medicaid expenditures

Sec. 2. (a) When the office, in accordance with 42 U.S.C. 1396p, determines that a Medicaid recipient who resides in a medical institution cannot reasonably be expected to be discharged from a medical institution and return home, the office may obtain a lien on the Medicaid recipient's real property for the cost of all Medicaid expenditures made on behalf of the recipient.

(b) The office shall conduct a look back (as described in 42 U.S.C. 1396p(c)) of a Medicaid recipient's property of at least three (3) years.

(c) A lien obtained under this chapter is subordinate to the security interest of a financial institution that loans money to be used as operating capital for the operation of a farm, a business, or income producing real property.

As added by P.L.178-2002, SEC.81. Amended by P.L.224-2003, SEC.71; P.L.1-2007, SEC.122.

IC 12-15-8.5-3

Limitations on lien

Sec. 3. The office may not obtain a lien under this chapter if any of the following persons lawfully reside in the home of the Medicaid recipient who resides in the medical institution:

(1) The Medicaid recipient's spouse.

(2) The Medicaid recipient's child who is:

(A) less than twenty-one (21) years of age; or

(B) disabled as defined by the federal Supplemental Security Income program.

(3) The Medicaid recipient's sibling who has an ownership interest in the home and who has lived in the home continuously beginning at least twelve (12) months before the recipient was admitted to the medical institution.

(4) The Medicaid recipient's parent.

As added by P.L.178-2002, SEC.81. Amended by P.L.224-2003, SEC.72.

IC 12-15-8.5-4

Notice required before lien obtained

Sec. 4. Before obtaining a lien on a Medicaid recipient's interest in real property under this chapter, the office shall notify in writing the Medicaid recipient and the Medicaid recipient's authorized representative, if applicable, of the following:

(1) The office's determination that the Medicaid recipient cannot reasonably be expected to be discharged from the medical institution.

(2) The office's intent to impose a lien on the Medicaid recipient's home.

(3) The Medicaid recipient's right to a hearing under IC 12-15-28 upon the Medicaid recipient's request regarding whether the requirements for the imposition of a lien are satisfied. A lien may not be filed for at least thirty (30) days after the notice is given and until the hearing process is completed if a hearing is requested.

As added by P.L.178-2002, SEC.81.

IC 12-15-8.5-5

Notice required to obtain lien; filing and distribution of notice

Sec. 5. (a) The office shall obtain a lien under this chapter by filing a notice of lien with the recorder of the county in which the real property subject to the lien is located. The notice shall be filed prior to the recipient's death and shall include the following:

(1) The name and place of residence of the individual against whose property the lien is asserted.

(2) A legal description of the real property subject to the lien.

(b) Upon the office's request, the county auditor or assessor of a county shall furnish the office with the legal description of any property in the county registered to the recipient.

(c) The office shall file one (1) copy of the notice of lien with the division of family resources in the county in which the real property is located. The division of family resources shall retain a copy of the notice with the records of the division of family resources.

(d) The office shall provide one (1) copy of the notice of lien to the recipient or the Medicaid recipient's authorized representative, if applicable, whose real property is affected.

As added by P.L.178-2002, SEC.81. Amended by P.L.128-2012, SEC.13.

IC 12-15-8.5-6

Effect of notice of lien; duration of lien

Sec. 6. (a) Beginning on the date on which a notice of lien is recorded in the office of the county recorder under section 5 of this chapter, the notice of lien:

(1) constitutes due notice of a lien against the Medicaid recipient's real property for any amount then recoverable and any amount that becomes recoverable under this article; and

(2) gives a specific lien in favor of the office on the Medicaid recipient's interest in the real property.

(b) The lien continues from the date of filing the lien until the lien:

(1) is satisfied; or
(2) is released.

As added by P.L.178-2002, SEC.81. Amended by P.L.224-2003, SEC.73.

IC 12-15-8.5-7
Lien foreclosure; automatic expiration of lien

Sec. 7. The office may bring proceedings in foreclosure on a lien arising under this chapter:

(1) during the lifetime of the Medicaid recipient if the Medicaid recipient or a person acting on behalf of the Medicaid recipient sells the property; or
(2) upon the death of the Medicaid recipient.

The lien automatically expires unless the office commences a foreclosure action not later than two (2) years after the Medicaid recipient's death.

As added by P.L.178-2002, SEC.81. Amended by P.L.224-2003, SEC.74.

IC 12-15-8.5-8
Limitations on enforcement of lien

Sec. 8. The office may not enforce a lien against a Medicaid recipient's home under this chapter as long as any of the following individuals reside in the home:

(1) The recipient's child of any age if the child:
(A) resided in the home for at least twenty-four (24) months before the Medicaid recipient was admitted to the medical institution;
(B) provided care to the Medicaid recipient that delayed the Medicaid recipient's admission to the medical institution; and
(C) has resided in the home on a continuous basis since the date of the individual's admission to the medical institution.
(2) The Medicaid recipient's sibling who has an ownership interest in the home and who has lived in the home continuously beginning at least twelve (12) months before the Medicaid recipient was admitted to the medical institution.

As added by P.L.178-2002, SEC.81. Amended by P.L.224-2003, SEC.75.

IC 12-15-8.5-9
Release of lien; waiver of filing fee

Sec. 9. (a) The office shall release a lien imposed under this chapter within ten (10) business days after the division of family resources receives notice that the Medicaid recipient:

(1) is no longer living in the medical institution; and
(2) has returned home to live.

(b) The county recorder shall waive the filing fee for the filing of a release made under this section.

(c) If the property subject to the lien is sold, the office shall release its lien at the closing, and the lien shall attach to the net proceeds of

the sale.
As added by P.L.178-2002, SEC.81. Amended by P.L.224-2003, SEC.76; P.L.128-2012, SEC.14.

IC 12-15-8.5-10
Repealed
(Repealed by P.L.224-2003, SEC.80.)

IC 12-15-8.5-11
Repealed
(Repealed by P.L.224-2003, SEC.80.)

IC 12-15-8.5-12
Conditions under which lien is void
Sec. 12. (a) This section applies:
(1) after the death of a Medicaid recipient whose property; or
(2) upon the sale of property that;
is subject to a lien under this chapter.
(b) A lien under this chapter is void if both of the following occur:
(1) The owner of property subject to a lien under this chapter or any person or corporation having an interest in the property, including a mortgagee or a lienholder, provides written notice to the office to file an action to foreclose the lien.
(2) The office fails to file an action to foreclose the lien in the county where the property is located not later than sixty (60) days after receiving the notice.
However, this section does not prevent the claim from being collected as other claims are collected by law.
(c) A person who gives notice under subsection (b)(1) by registered or certified mail to the office at the address given in the recorded statement and notice of intention to hold a lien may file an affidavit of service of the notice to file an action to foreclose the lien with the recorder of the county in which the property is located. The affidavit must state the following:
(1) The facts of the notice.
(2) That more than sixty (60) days have passed since the notice was received by the office.
(3) That no action for foreclosure of the lien is pending.
(4) That no unsatisfied judgment has been rendered on the lien.
(d) The recorder shall:
(1) record the affidavit of service in the miscellaneous record book of the recorder's office; and
(2) certify on the face of the record any lien that is fully released.
When the recorder records the affidavit and certifies the record under this subsection, the real estate described in the lien is released from the lien.
As added by P.L.224-2003, SEC.77. Amended by P.L.246-2005, SEC.106.

IC 12-15-8.5-13

Contracting with attorney; attorney's fees

Sec. 13. (a) The office may contract with an attorney to obtain or enforce a lien under this chapter.

(b) If the office contracts with an attorney under this section, the attorney's fees may not exceed:

(1) seven and five-tenths percent (7.5%) of the office's recovery under the lien if the proceeding to obtain and enforce the lien is not contested; or

(2) ten percent (10%) of the office's recovery under the lien if the proceeding to obtain and enforce the lien is contested.

As added by P.L.236-2007, SEC.2.

IC 12-15-9

Chapter 9. Death and Funeral Expenses; Claims Against an Estate

IC 12-15-9-0.5

"Estate" and "nonprobate transfer"

Sec. 0.5. (a) As used in this chapter, "estate" includes:

(1) all real and personal property and other assets included within an individual's probate estate;

(2) any interest in real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship, if the joint tenancy was created after June 30, 2002;

(3) any real or personal property conveyed through a nonprobate transfer; and

(4) any sum due after June 30, 2005, to a person after the death of a Medicaid recipient that is under the terms of an annuity contract purchased after May 1, 2005, with the assets of the Medicaid recipient.

(b) As used in this chapter, "nonprobate transfer" means a valid transfer, effective at death, by a transferor:

(1) whose last domicile was in Indiana; and

(2) who immediately before death had the power, acting alone, to prevent transfer of the property by revocation or withdrawal and:

(A) use the property for the benefit of the transferor; or

(B) apply the property to discharge claims against the transferor's probate estate.

The term does not include transfer of a survivorship interest in a tenancy by the entireties real estate or payment of the death proceeds of a life insurance policy.

As added by P.L.152-1995, SEC.5. Amended by P.L.178-2002, SEC.82; P.L.224-2003, SEC.78; P.L.246-2005, SEC.107; P.L.149-2012, SEC.3.

IC 12-15-9-0.6

Claim against assets not included in probate estate; time limit

Sec. 0.6. (a) The office's claim against assets that are not included in the individual's probate estate may be enforced as set out in IC 32-17-13.

(b) Enforcement of a claim against assets that are not included in an individual's probate estate must be commenced not more than nine (9) months after the decedent's death. This limit does not apply to any assets that were not reported to the county office of the division of family resources.

As added by P.L.178-2002, SEC.83. Amended by P.L.1-2003, SEC.54; P.L.145-2006, SEC.87; P.L.44-2009, SEC.12.

IC 12-15-9-0.7

Repealed

(Repealed by P.L.246-2005, SEC.230.)

IC 12-15-9-0.8
Limitation on definition of estate

Sec. 0.8. Any nonprobate assets:

(1) that the office determined were exempt or unavailable assets; or

(2) that were transferred out of the probate estate;

before May 1, 2002, may not be included in the definition of estate under this chapter.

As added by P.L.178-2002, SEC.85.

IC 12-15-9-1
Amount of claim; preference

Sec. 1. Upon the death of a Medicaid recipient, the total amount of Medicaid paid on behalf of the recipient after the recipient became fifty-five (55) years of age must be allowed as a preferred claim against the estate of the recipient in favor of the state. The affidavit of a person designated by the secretary to administer this section is evidence of the amount of the claim and is payable after the payment of the following in accordance with IC 29-1-14-9:

(1) Funeral expenses for the recipient, not to exceed three hundred fifty dollars ($350).

(2) The expenses of the last illness of the recipient that are authorized or paid by the office.

(3) The expenses of administering the estate, including the attorney's fees approved by the court.

As added by P.L.2-1992, SEC.9. Amended by P.L.152-1995, SEC.6; P.L.246-2005, SEC.108; P.L.149-2012, SEC.4.

IC 12-15-9-2
Property exempt from enforcement

Sec. 2. A claim may not be enforced against the following:

(1) Real estate of a recipient while it is necessary for the support, maintenance, or comfort of the surviving spouse, a dependent child less than twenty-one (21) years of age, or a dependent who is nonsupporting because of blindness or other disability.

(2) Personal property necessary for the support, maintenance, or comfort of the surviving spouse, a dependent child less than twenty-one (21) years of age, or a dependent who is nonsupporting because of blindness or other disability.

(3) Personal effects, ornaments, or keepsakes of the deceased.

As added by P.L.2-1992, SEC.9. Amended by P.L.152-1995, SEC.7.

IC 12-15-9-5
Claims against the estate of a recipient's spouse prohibited

Sec. 5. The office may not file a claim against the estate of a recipient's surviving spouse.

As added by P.L.152-1995, SEC.8. Amended by P.L.246-2005,

SEC.109; P.L.149-2012, SEC.5.

IC 12-15-9-6
Waiver in cases of undue hardship; rules

Sec. 6. Notwithstanding sections 2 and 5 of this chapter, the office may waive the application of this chapter in cases of undue hardship. The office of the secretary shall adopt rules under IC 4-22-2 establishing criteria for hardship waivers that are consistent with guidelines of the Secretary of the United States Department of Health and Human Services.
As added by P.L.152-1995, SEC.9.

IC 12-15-9-7
Reimbursement; proceeds of annuity contracts

Sec. 7. A person receiving beneficiary payments from an annuity contract of a deceased Medicaid recipient is liable to the state for reimbursement of Medicaid benefits:

(1) paid to; or
(2) on behalf of;

the deceased Medicaid recipient to the extent of any payments that are received by the person under a annuity contract purchased after May 1, 2005.
As added by P.L.246-2005, SEC.110.

IC 12-15-10
Chapter 10. Selection of Provider

IC 12-15-10-1
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 12-15-10-2
Licensed or otherwise qualified providers; participation in Medicaid program
Sec. 2. If a provider is required to be licensed or otherwise qualified under Indiana law or the law of another state, the assistance must be obtained from a provider who is licensed or otherwise qualified and is enrolled to participate in the Medicaid program.
As added by P.L.2-1992, SEC.9.

IC 12-15-10-3
Individuals required to furnish providers with Medicaid information; rules
Sec. 3. The office may by rule require the individual to furnish providers with information regarding Medicaid provided to the individual.
As added by P.L.2-1992, SEC.9.

IC 12-15-10-4
Furnishing providers with information; forms
Sec. 4. The office shall provide forms for providing information under section 3 of this chapter.
As added by P.L.2-1992, SEC.9.

IC 12-15-10-5
Documentation of Medicaid provided; rules
Sec. 5. The office may by rule require a provider to make available to the office information necessary to document Medicaid provided under this chapter.
As added by P.L.2-1992, SEC.9.

IC 12-15-10-6
Selection of primary dental provider encouraged
Sec. 6. The office shall encourage the parent of a child who is a recipient of Medicaid to select a primary dental provider for the child before the child is eighteen (18) months of age.
As added by P.L.169-2001, SEC.2.

IC 12-15-11

Chapter 11. Provider Agreements and Competitive Bidding

IC 12-15-11-1

Physician services defined

Sec. 1. (a) As used in this chapter, "physician services" means services provided by an individual licensed under IC 25-22.5 while engaged in the practice of medicine (as defined in IC 25-22.5-1-1.1(a)).

(b) The term does not include the decision to admit a patient to a hospital.

As added by P.L.2-1992, SEC.9.

IC 12-15-11-2

Services other than physician services provided by managed care provider; provider agreement; filing; form

Sec. 2. A provider desiring to participate in the Medicaid program by providing to individuals eligible for Medicaid services, other than physician services provided by a managed care provider, shall file a provider agreement with the office on forms provided by the office.

As added by P.L.2-1992, SEC.9.

IC 12-15-11-2.5

Surety bond requirement for certain transportation providers; requirements; revocation or denial of provider agreement for failure to comply; demonstration of compliance; refund

Sec. 2.5. (a) As used in this section, "transportation provider" means a person:

(1) that is a common carrier, including a person that provides transportation by a taxi; and

(2) that:

(A) is enrolled; or

(B) applies for enrollment;

in the Medicaid program as a Medicaid provider to render transportation services to Medicaid recipients.

(b) This section does not apply to a transportation provider that is:

(1) exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code;

(2) at the discretion of the secretary, granted a waiver of the bond requirement under subsection (c) to provide transportation services in a federal or state designated underserved area;

(3) at the discretion of the secretary, granted a waiver of the bond requirement under subsection (c) based on the determination that the provider does not pose a significant risk of submitting fraudulent or false Medicaid claims;

(4) owned or controlled by a person that is licensed or certified by an entity described in IC 25-0.5-11;

(5) owned or controlled by a pharmacy that has a permit issued under IC 25-26-13;

(6) owned or controlled by a hospital licensed under IC 16-21;

or

(7) required under federal law to obtain a surety bond to cover Medicaid overpayments and false Medicaid claims and has obtained a bond that complies with the applicable federal law.

(c) A transportation provider that applies for enrollment as a Medicaid provider:

(1) as a new applicant;

(2) due to a change in ownership of a transportation provider currently enrolled; or

(3) due to a purchase or transfer of the assets of a transportation provider currently enrolled;

shall, at the time the transportation provider files a provider agreement with the office, submit to the office a surety bond that meets the requirements of subsection (d) and is issued by a surety that is authorized by the office of the secretary.

(d) The following apply to a surety bond filed with the office under this section:

(1) The surety bond must be continuously in effect for at least three (3) years after the application is made as described in subsection (c).

(2) The surety bond must provide coverage for liability of at least fifty thousand dollars ($50,000).

(3) The surety bond must name the:

(A) transportation provider as the principal;

(B) office as the obligee; and

(C) person that issues the surety bond, including the person's heirs, executors, administrators, successors, and assignees, jointly and severally, as surety.

(4) The surety bond must provide the surety's name, street address or post office box number, city, state, and ZIP code.

(5) The surety bond must provide that the surety is liable under the surety bond for a duplicate, erroneous, or false Medicaid claim paid by the office or its fiscal agent to the transportation provider during the term of the surety bond.

(6) The surety bond must provide that the bond may not be void on a first recovery, but that suits may be instituted until the penalty is exhausted.

(7) The surety bond must guarantee that the surety will, not later than thirty (30) days after the surety receives written notice from the office containing sufficient evidence to establish the surety's liability under the surety bond as described in subdivision (5), pay to the office the following amounts, not to exceed the full amount of the surety bond:

(A) The amount of the duplicate, erroneous, or false claim that was previously paid by the office or its fiscal agent to the transportation provider, plus accrued interest.

(B) An assessment imposed under IC 12-15-22 by the office on the transportation provider.

(8) The surety bond must provide that if the transportation provider's provider agreement is not renewed or is terminated,

the surety bond submitted by the transportation provider remains in effect until the last day of the surety bond coverage period and the surety remains liable for a duplicate, erroneous, or false claim paid by the office or its fiscal agent to the transportation provider during the term of the surety bond.

(9) The surety bond must provide that actions under the surety bond may be brought by the office or the attorney general.

(e) The office may revoke or deny a provider agreement for a transportation provider's failure to comply with this section.

(f) The office may revoke a provider agreement if a transportation provider cancels a surety bond required by this section.

(g) The office or its designee may, at any time, require a transportation provider to demonstrate compliance with this section.

(h) If:

(1) a surety has paid the office for a liability incurred under a surety bond under this section; and

(2) the transportation provider is subsequently successful in appealing the determination of liability;

the office shall, upon completion of the appellate process, refund the surety or the transportation provider the full amount paid for the liability.

As added by P.L.197-2013, SEC.11. Amended by P.L.3-2014, SEC.4.

IC 12-15-11-3

Provider agreement requirements

Sec. 3. A provider agreement must do the following:

(1) Include information that the office determines necessary to facilitate carrying out of IC 12-15.

(2) Prohibit the provider from requiring payment from a recipient of Medicaid, except where a copayment is required by law.

(3) For providers categorized as high risk to the Medicaid program under 42 U.S.C. 1395cc(j)(2)(B) and 42 CFR 455.450, require the submission of necessary information, forms, or consents for the office to obtain a national criminal history background check through the state police department under IC 10-13-3-39 of any person who:

(A) holds at least a five percent (5%) ownership interest in a facility or entity; or

(B) is a member of the board of directors of a nonprofit facility or entity;

in which the provider applicant plans to provide Medicaid services under the provider agreement. The provider applicant is responsible for the cost of the national criminal history background check.

As added by P.L.2-1992, SEC.9. Amended by P.L.197-2013, SEC.12.

IC 12-15-11-4

Provider agreement to provide physician services; site visit for moderate or high categorical risk designees

Sec. 4. (a) A provider desiring to participate in the Medicaid program by providing physician services as a managed care provider must enter into a provider agreement with the office or the contractor under IC 12-15-30 to provide Medicaid services.

(b) Before the office may approve a provider agreement, the office shall conduct a pre-enrollment site visit for provider applicants that are designated as moderate or high categorical risks to the Medicaid program under 42 U.S.C. 1395cc(j)(2)(B) and 42 CFR 455.450.

As added by P.L.2-1992, SEC.9. Amended by P.L.197-2013, SEC.13.

IC 12-15-11-5

Compliance with enrollment requirements

Sec. 5. A provider who participates in the Medicaid program must comply with the enrollment requirements that are established under rules adopted under IC 4-22-2 by the secretary.

As added by P.L.2-1992, SEC.9.

IC 12-15-11-6

Execution of provider agreement; authority of office to exclude provider from participation by entry into exclusive contract with another provider

Sec. 6. After a provider signs a provider agreement under this chapter, the office may not exclude the provider from participating in the Medicaid program by entering into an exclusive contract with another provider or group of providers, except as provided under section 7 of this chapter.

As added by P.L.2-1992, SEC.9.

IC 12-15-11-7

Competitive bids; services and items for which bids may be sought

Sec. 7. The office may seek competitive bids for the following items or services provided under Medicaid:

(1) Prescribed drugs and services for state operated institutions.
(2) Physical therapy and other therapeutic services.
(3) Prescribed laboratory and x-ray services.
(4) Eyeglasses and prosthetic devices.
(5) Medical equipment and supplies.
(6) Transportation services.

As added by P.L.2-1992, SEC.9.

IC 12-15-11.5

Chapter 11.5. Lake County Disproportionate Share Hospitals

IC 12-15-11.5-0.5

Chapter not applicable to certain managed care contractors

Sec. 0.5. This chapter does not apply to a managed care contractor that, on or before July 1, 2000, did not directly contract with a hospital (as defined in section 1 of this chapter) for the provision of services under the office's managed care program.

As added by P.L.141-2001, SEC.1.

IC 12-15-11.5-1

"Hospital" defined

Sec. 1. As used in this chapter, "hospital" refers to an acute care hospital provider that:

(1) is licensed under IC 16-21;

(2) qualifies as a disproportionate share hospital under IC 12-15-16; and

(3) is the sole disproportionate share hospital in a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

As added by P.L.142-2000, SEC.2.

IC 12-15-11.5-2

Hospital as contracted provider to eligible individuals

Sec. 2. The office's managed care contractor shall regard a hospital as a contracted provider in the office's managed care services program, which provides a capitated prepayment managed care system, for the provision of medical services to each individual who:

(1) is eligible to receive services under IC 12-15 and has enrolled in the office's managed care services program;

(2) resides in the same city in which the hospital is located; and

(3) has selected a primary care provider who:

(A) is a contracted provider with the office's managed care contractor; and

(B) has medical staff privileges at the hospital.

As added by P.L.142-2000, SEC.2. Amended by P.L.141-2001, SEC.2.

IC 12-15-11.5-3

Repealed

(Repealed by P.L.145-2005, SEC.30.)

IC 12-15-11.5-3.1

Repealed

(Repealed by P.L.1-2007, SEC.248.)

IC 12-15-11.5-4

Repealed

(Repealed by P.L.1-2002, SEC.172.)

IC 12-15-11.5-4.1
Repealed
(Repealed by P.L.145-2005, SEC.30.)

IC 12-15-11.5-4.2
Repealed
(Repealed by P.L.1-2007, SEC.248.)

IC 12-15-11.5-5
Repealed
(Repealed by P.L.1-2002, SEC.172.)

IC 12-15-11.5-6
Claim for reimbursement treated as disputed claim

Sec. 6. A claim for reimbursement for services shall be treated as a disputed claim under this chapter if:

(1) it is submitted within one hundred twenty (120) days after the date that services are rendered;
(2) it is denied by the managed care contractor;
(3) the hospital submits a written notice of dispute for the claim to the managed care contractor not more than sixty (60) days after the receipt of the denial notice;
(4) it is appealed in accordance with the managed care contractor's internal appeals process; and
(5) payment for the claim is denied by the managed care contractor following its internal appeals process.

As added by P.L.142-2000, SEC.2.

IC 12-15-11.5-7
Conclusion of appeal

Sec. 7. The office's managed care contractor must conclude an appeal under section 6(4) of this chapter and notify the hospital of its decision not more than thirty-five (35) days after the managed care contractor receives a notice from the hospital disputing the managed care contractor's denial of a claim.

As added by P.L.142-2000, SEC.2.

IC 12-15-11.5-8
Dispute resolution procedure requirements

Sec. 8. (a) A contract entered into by a hospital with the office's managed care contractor for the provision of services under the office's managed care services program must include a dispute resolution procedure for all disputed claims. Unless agreed to in writing by the hospital and the office's managed care contractor, the dispute resolution procedure must include the following requirements:

(1) That submission of disputed claims must be made to an independent arbitrator selected under subsection (b).

(2) Each claim must set forth with specificity the issues to be arbitrated, the amount involved, and the relief sought.
(3) That the hospital and the office's managed care contractor shall attempt in good faith to resolve all disputed claims.
(4) The hospital shall submit to the arbitrator any claims that remain in dispute sixty (60) calendar days after the hospital receives written notice as provided under section 7 of this chapter.
(5) That resolution of disputes by the arbitrator must occur not later than ninety (90) calendar days after submission of disputed claims to the arbitrator, unless the parties mutually agree otherwise.
(6) That determinations of the arbitrator are final and binding and not subject to any appeal or review procedure.
(7) That the arbitrator does not have the authority to award any punitive or exemplary damages or to vary or ignore the terms of any contract between the parties and shall be bound by controlling law.
(8) That judgment upon the award rendered by the arbitrator may be entered and enforced in and is subject to the jurisdiction of a court with jurisdiction in Indiana.
(9) That the cost of the arbitrator must be shared equally by the parties, and each party must bear its own attorney and witness fees.

(b) The parties to a contract described in subsection (a) shall mutually agree on an independent arbitrator, or, if the parties are unable to reach agreement on an independent arbitrator, the following procedure must be followed:

(1) Each party shall select an independent representative, and the independent representatives shall select a panel of three (3) independent arbitrators who have experience in institutional and professional health care delivery practices and procedures and have had no prior dealing with either party other than as an arbitrator.
(2) The parties will each strike one (1) arbitrator from the panel selected under subdivision (1), and the remaining arbitrator serves as the arbitrator of the disputed claims under subsection (a).
(3) The procedures for selecting an arbitrator under this section must be completed not later than twenty (20) calendar days after the hospital provides written notice of at least one (1) disputed claim.

As added by P.L.142-2000, SEC.2.

IC 12-15-11.5-9
Arbitration process to be followed for disputed claims between hospital and managed care contractor

Sec. 9. The arbitration process described in section 8 of this chapter shall also be followed for resolution of disputed claims between a hospital and the office's managed care contractor, if the

hospital is not a contracted provider in the office's managed health care services program.
As added by P.L.142-2000, SEC.2.

IC 12-15-11.5-10
Arbitration of disputed claims

Sec. 10. A hospital and the managed care contractor of the office shall use the arbitration procedure in section 8 of this chapter for the resolution of all disputed claims that have accrued as of March 17, 2000.
As added by P.L.220-2011, SEC.265.

IC 12-15-12
Chapter 12. Managed Care

IC 12-15-12-0.3
"Emergency medical condition" defined

Sec. 0.3. As used in this chapter, "emergency medical condition" means a medical condition manifesting itself by acute symptoms, including severe pain, of sufficient severity that a prudent lay person with an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in:

(1) serious jeopardy to the health of:
(A) the individual; or
(B) in the case of a pregnant woman, the woman or her unborn child;
(2) serious impairment to bodily functions; or
(3) serious dysfunction of any bodily organ or part.

As added by P.L.223-2001, SEC.4.

IC 12-15-12-0.5
"Emergency services" defined

Sec. 0.5. As used in this chapter, "emergency services" means covered inpatient and outpatient services that are:

(1) furnished by a provider qualified to furnish emergency services; and
(2) needed to evaluate or stabilize an emergency medical condition.

As added by P.L.223-2001, SEC.5.

IC 12-15-12-0.7
"Post-stabilization care services" defined

Sec. 0.7. As used in this chapter, "post-stabilization care services" means covered services related to an emergency medical condition that are provided after an enrollee is stabilized in order to maintain the stabilized condition or, under the circumstances described in IC 12-15-12-17(b)(3), to improve or resolve the enrollee's condition.
As added by P.L.223-2001, SEC.6.

IC 12-15-12-1
Providers from whom recipients may obtain services other than physician services; exceptions

Sec. 1. Except as provided in sections 6, 7, and 8 of this chapter, a Medicaid recipient may obtain any Medicaid services, with the exception of physician services, from a provider who has entered into a provider agreement under IC 12-15-11.
As added by P.L.2-1992, SEC.9.

IC 12-15-12-2
Providers from whom recipients may receive physician services; exceptions

Sec. 2. Except as provided in sections 8 and 9 of this chapter, a Medicaid recipient may receive physician services from a managed

care provider selected by the recipient from a list of managed care providers furnished the recipient by the office.
As added by P.L.2-1992, SEC.9.

IC 12-15-12-3
List of managed care providers furnished recipient; providers included; exception

Sec. 3. Except as provided in section 9 of this chapter, the list of managed care providers furnished the recipient must include the names of all managed care providers who meet the following requirements:

(1) Have entered into a provider agreement with the office under IC 12-15-11 to provide physician services to Medicaid recipients.

(2) Provide physician services in the geographic area in which the recipient resides.

As added by P.L.2-1992, SEC.9.

IC 12-15-12-4
Failure by recipient to select managed care provider within reasonable time; assignment by office; exception

Sec. 4. Except as provided in section 9 of this chapter, if a recipient fails to select a managed care provider within a reasonable time after the list is furnished the recipient, the office may assign a managed care provider to the recipient.
As added by P.L.2-1992, SEC.9.

IC 12-15-12-4.5
Managed care prescription drug program requirements

Sec. 4.5. A managed care provider's contract or provider agreement with the office may include a prescription drug program, subject to IC 12-15-5-5, IC 12-15-35, and IC 12-15-35.5.
As added by P.L.101-2005, SEC.2.

IC 12-15-12-5
Circumstances permitting recipient to receive physician services from provider other than managed care provider; exceptions

Sec. 5. Except as provided in sections 6 and 7 of this chapter, a Medicaid recipient may not receive physician services from a provider other than the managed care provider selected by the recipient under section 2 of this chapter, except as follows:

(1) In an emergency.

(2) Upon the written referral of the managed care provider.

(3) As provided in sections 6 through 9 of this chapter.

As added by P.L.2-1992, SEC.9.

IC 12-15-12-6
Admission to hospital by physician other than managed care provider; notification of managed care provider; services for which payment made

Sec. 6. (a) A Medicaid recipient may be admitted to a hospital by

a physician other than the recipient's managed care provider if the recipient requires immediate medical treatment.

(b) The admitting physician shall notify the recipient's managed care provider of the recipient's admission not more than forty-eight (48) hours after the recipient's admission.

(c) Payment for services provided a recipient admitted to a hospital under this section shall be made only for services that the office or the contractor under IC 12-15-30 determines were medically reasonable and necessary.

As added by P.L.2-1992, SEC.9.

IC 12-15-12-7

Providers from whom recipients may obtain eye care services other than surgical services

Sec. 7. A Medicaid recipient may obtain eye care services, except for surgical services, from any provider licensed under IC 25-22.5 or IC 25-24 who has entered into a provider agreement under IC 12-15-11.

As added by P.L.2-1992, SEC.9.

IC 12-15-12-8

Providers from whom recipients may obtain foot care services

Sec. 8. A Medicaid recipient may obtain foot care services from any provider licensed under IC 25-22.5 or IC 25-29 who has entered into a provider agreement under IC 12-15-11.

As added by P.L.2-1992, SEC.9.

IC 12-15-12-9

Providers from whom recipients may obtain psychiatric services

Sec. 9. A Medicaid recipient may obtain psychiatric services from any provider licensed under IC 25-22.5 who has entered into a provider agreement under IC 12-15-11.

As added by P.L.2-1992, SEC.9.

IC 12-15-12-10

Selection or assignment of managed care provider; selection of new provider; exception

Sec. 10. (a) A Medicaid recipient who has selected or been assigned a managed care provider under this chapter may not select a new managed care provider for twelve (12) months after the managed care provider was selected or assigned.

(b) The office may make an exception to the requirement under subsection (a) if the office determines that circumstances warrant a change.

As added by P.L.2-1992, SEC.9.

IC 12-15-12-11

Waiver from Department of Health and Human Services; implementation of chapter

Sec. 11. The office shall seek the necessary waiver under 42 U.S.C. 1396n(b)(1) from the United States Department of Health and

Human Services to implement this chapter.
As added by P.L.2-1992, SEC.9.

IC 12-15-12-12
Payments to providers

Sec. 12. For a managed care program or demonstration project established or authorized by the office, or established or authorized by another entity or agency working in conjunction with or under agreement with the office, the office must provide for payment to providers in the managed care program that the office finds is reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated providers in order to:

(1) provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards; and

(2) ensure that individuals eligible for medical assistance under the managed care program or demonstration project have reasonable access (taking into account geographic location and reasonable travel time) to the services provided by the managed care program.

As added by P.L.93-1995, SEC.3.

IC 12-15-12-13
Permitted forms

Sec. 13. (a) The office and an entity with which the office contracts for the payment of claims shall accept claims submitted on any of the following forms by an individual or organization that is a contractor or subcontractor of the office:

(1) HCFA-1500.

(2) HCFA-1450 (UB92).

(3) American Dental Association (ADA) claim form.

(4) Pharmacy and compound drug form.

(b) The office and an entity with which the office contracts for the payment of claims:

(1) may designate as acceptable claim forms other than a form listed in subsection (a); and

(2) may not mandate the use of a crossover claim form.

As added by P.L.256-2001, SEC.2.

IC 12-15-12-14
Repealed

(Repealed by P.L.145-2014, SEC.6.)

IC 12-15-12-15
Coverage for emergency services

Sec. 15. The office, for purposes of the primary care case management program, and a managed care contractor, for purposes of the risk-based managed care program, shall:

(1) cover and pay for all medically necessary screening services provided to an individual who presents to an emergency department with an emergency medical condition; and

(2) beginning July 1, 2001, not deny or fail to process a claim for reimbursement for emergency services on the basis that the enrollee's primary care provider's authorization code for the services was not obtained before or after the services were rendered.

As added by P.L.223-2001, SEC.7.

IC 12-15-12-17

Coverage for post-stabilization care services

Sec. 17. (a) This section applies to post-stabilization care services provided to an individual enrolled in:

(1) the Medicaid risk-based managed care program; or

(2) the Medicaid primary care case management program.

(b) The office, if the individual is enrolled in the primary care case management program, or the managed care organization, if the individual is enrolled in the risk-based managed care program, is financially responsible for the following services provided to an enrollee:

(1) Post-stabilization care services that are pre-approved by a representative of the office or the managed care organization, as applicable.

(2) Post-stabilization care services that are not pre-approved by a representative of the office or the managed care organization, as applicable, but that are administered to maintain the enrollee's stabilized condition within one (1) hour of a request to the office or the managed care organization for pre-approval of further post-stabilization care services.

(3) Post-stabilization care services provided after an enrollee is stabilized that are not pre-approved by a representative of the office or the managed care organization, as applicable, but that are administered to maintain, improve, or resolve the enrollee's stabilized condition if the office or the managed care organization:

(A) does not respond to a request for preapproval within one (1) hour;

(B) cannot be contacted; or

(C) cannot reach an agreement with the enrollee's treating physician concerning the enrollee's care, and a physician representing the office or the managed care organization, as applicable, is not available for consultation.

(c) If the conditions described in subsection (b)(3)(C) exist, the office or the managed care organization, as applicable, shall give the enrollee's treating physician an opportunity to consult with a physician representing the office or the managed care organization. The enrollee's treating physician may continue with care of the enrollee until a physician representing the office or the managed care organization, as applicable, is reached or until one (1) of the following criteria is met:

(1) A physician:

(A) representing the office or the managed care organization, as applicable; and

(B) who has privileges at the treating hospital;

assumes responsibility for the enrollee's care.

(2) A physician representing the office or the managed care organization, as applicable, assumes responsibility for the enrollee's care through transfer.

(3) A representative of the office or the managed care organization, as applicable, and the treating physician reach an agreement concerning the enrollee's care.

(4) The enrollee is discharged from the treating hospital.

(d) This subsection applies to post-stabilization care services provided under subsection (b)(1), (b)(2), and (b)(3) to an individual enrolled in the Medicaid risk-based managed care program by a provider who has not contracted with a Medicaid risk-based managed care organization to provide post-stabilization care services under subsection (b)(1), (b)(2), and (b)(3) to the individual. Payment for post-stabilization care services provided under subsection (b)(1), (b)(2), and (b)(3) must be in an amount equal to one hundred percent (100%) of the current Medicaid fee for service reimbursement rates for such services.

(e) This section does not prohibit a managed care organization from entering into a subcontract with another Medicaid risk-based managed care organization providing for the latter organization to assume financial responsibility for making the payments required under this section.

(f) This section does not limit the ability of the office or the managed care organization to:

(1) review; and

(2) make a determination of;

the medical necessity of the post-stabilization care services provided to an enrollee for purposes of determining coverage for such services.

As added by P.L.223-2001, SEC.8.

IC 12-15-12-18

Payment for emergency services

Sec. 18. (a) Except as provided in subsection (b), this section applies to:

(1) emergency services provided to an individual enrolled in the Medicaid risk-based managed care program; and

(2) medically necessary screening services provided to an individual enrolled in the Medicaid risk-based managed care program;

who presents to an emergency department with an emergency medical condition.

(b) This section does not apply to emergency services or screening services provided to an individual enrolled in the Medicaid risk-based managed care program by a provider who has contracted with a Medicaid risk-based managed care organization to provide emergency services to the individual.

(c) Payment for emergency services and medically necessary screening services in the emergency department of a hospital licensed under IC 16-21 must be in an amount equal to one hundred percent

(100%) of the current Medicaid fee for service reimbursement rates for such services.

(d) Payment under subsection (c) is the responsibility of the enrollee's risk-based managed care organization. This subsection does not prohibit the risk-based managed care organization from entering into a subcontract with another Medicaid risk-based managed care organization providing for the latter organization to assume financial responsibility for making the payments required under this section.

(e) This section does not limit the ability of the managed care organization to:

(1) review; and

(2) make a determination of;

the medical necessity of the services provided in a hospital's emergency department for purposes of determining coverage for such services.

As added by P.L.223-2001, SEC.9.

IC 12-15-12-19

Disease management program; case management program

Sec. 19. (a) This section applies to an individual who is a Medicaid recipient.

(b) Subject to subsection (c), the office shall develop the following programs regarding individuals described in subsection (a):

(1) A disease management program for recipients with any of the following chronic diseases:

(A) Asthma.

(B) Diabetes.

(C) Congestive heart failure or coronary heart disease.

(D) Hypertension.

(E) Kidney disease.

(2) A case management program for recipients described in subsection (a) who are at high risk of chronic disease, that is based on a combination of cost measures, clinical measures, and health outcomes identified and developed by the office with input and guidance from the state department of health and other experts in health care case management or disease management programs.

(c) The office shall implement:

(1) a pilot program for at least two (2) of the diseases listed in subsection (b) not later than July 1, 2003; and

(2) a statewide chronic disease program as soon as practicable after the office has done the following:

(A) Evaluated a pilot program described in subdivision (1).

(B) Made any necessary changes in the program based on the evaluation performed under clause (A).

(d) The office shall develop and implement a program required under this section in cooperation with the state department of health and shall use the following persons to the extent possible:

(1) Community health centers.

(2) Federally qualified health centers (as defined in 42 U.S.C. 1396d(l)(2)(B)).

(3) Rural health clinics (as defined in 42 U.S.C. 1396d(l)(1)).
(4) Local health departments.
(5) Hospitals.
(6) Public and private third party payers.

(e) The office may contract with an outside vendor or vendors to assist in the development and implementation of the programs required under this section.

(f) The office and the state department of health shall provide the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6 with an evaluation and recommendations on the costs, benefits, and health outcomes of the pilot programs required under this section. The evaluations required under this subsection must be provided not more than twelve (12) months after the implementation date of the pilot programs.

(g) The office and the state department of health shall report to the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6 not later than November 1 of each year regarding the programs developed under this section.

(h) The disease management program services for a recipient diagnosed with diabetes or hypertension must include education for the recipient on kidney disease and the benefits of having evaluations and treatment for chronic kidney disease according to accepted practice guidelines.

As added by P.L.291-2001, SEC.161. Amended by P.L.66-2002, SEC.2; P.L.212-2003, SEC.1; P.L.13-2004, SEC.1; P.L.48-2005, SEC.1; P.L.18-2007, SEC.1; P.L.205-2013, SEC.189; P.L.53-2014, SEC.104.

IC 12-15-12-20
Child lead poisoning screening

Sec. 20. The office shall develop the following:

(1) A measure to evaluate the performance of a Medicaid managed care organization in screening a child who is less than six (6) years of age for lead poisoning.
(2) A system to maintain the results of an evaluation under subdivision (1) in written form.
(3) A performance incentive program for Medicaid managed care organizations evaluated under subdivision (1).

As added by P.L.135-2005, SEC.1.

IC 12-15-12-21
Accreditation

Sec. 21. (a) Not later than January 1, 2011, the following must be accredited by the National Committee for Quality Assurance or its successor:

(1) A managed care organization that has contracted with the office before July 1, 2008, to provide Medicaid services under the risk based managed care program.
(2) A behavioral health managed care organization that has

contracted before July 1, 2008, with a managed care organization described in subdivision (1).

(b) A:

(1) managed care organization that has contracted with the office after June 30, 2008, to provide Medicaid services under the risk based managed care program; or

(2) behavioral health managed care organization that has contracted after June 30, 2008, with a managed care organization described in subdivision (1);

must begin the accreditation process and obtain accreditation by the National Committee for Quality Assurance or its successor at the earliest time that the National Committee for Quality Assurance allows a managed care organization to be accredited.

As added by P.L.113-2008, SEC.6.

IC 12-15-12-22

Accepting, receiving, and processing electronic claims

Sec. 22. A:

(1) managed care organization that has a contract with the office to provide Medicaid services under the risk based managed care program; or

(2) behavioral health managed care organization that has contracted with a managed care organization described in subdivision (1);

shall accept, receive, and process claims for payment that are filed electronically by a Medicaid provider.

As added by P.L.113-2008, SEC.7.

IC 12-15-13

Chapter 13. Provider Payment; General

IC 12-15-13-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to this chapter apply as follows:

(1) The amendments made to section 1 of this chapter by P.L.257-1996 apply to provider claims for payment under the Medicaid program under this article after March 31, 1996.

(2) The addition of section 1.5 of this chapter by P.L.257-1996 applies to provider claims for payment under the Medicaid program under this article after March 31, 1996.

As added by P.L.220-2011, SEC.266.

IC 12-15-13-0.4

"Office"

Sec. 0.4. As used in this chapter, "office" includes the following:

(1) The office of the secretary of family and social services.

(2) A managed care organization that has contracted with the office of Medicaid policy and planning under this article.

(3) A person that has contracted with a managed care organization described in subdivision (2).

As added by P.L.117-2008, SEC.2. Amended by P.L.109-2014, SEC.19.

IC 12-15-13-0.5

"Clean claim"

Sec. 0.5. (a) Except as provided in section 0.6 of this chapter, as used in this chapter, "clean claim" means a claim submitted by a provider for payment under the Medicaid program that can be processed without obtaining additional information from:

(1) the provider of the service; or

(2) a third party.

(b) The definition under subsection (a):

(1) includes a claim with errors originating in the state's claims processing system; and

(2) does not include a claim:

(A) from a provider who is under investigation for fraud or abuse (as used in 42 CFR 447.45(b); or

(B) under review for medical necessity.

As added by P.L.107-1996, SEC.2 and P.L.257-1996, SEC.2.

IC 12-15-13-0.6

"Clean claim" for purposes of IC 12-15-14

Sec. 0.6. (a) "Clean claim", as the term applies to payments to nursing facilities under IC 12-15-14, means a claim submitted by a provider for payment that meets the following conditions:

(1) Contains the following locators:

(A) Type of bill.

(B) Coverage dates.

(C) Bill status.
(D) Revenue codes.
(E) Rate of payment.
(F) Service units.
(G) Total charges.
(H) Provider number.
(I) Third party prior payments.
(J) Estimated amount due.
(K) Recipient number.
(L) Provider signature.
(M) Provider name.
(N) Number of covered days of service.
(O) Date of admission.
(P) Condition codes.
(Q) Occurrence codes and dates.
(R) Value codes and amounts.
(S) Third party liability payor name.
(T) Recipient name.
(U) Admitting diagnosis.
(V) Attending physician ID number.

(2) Has correct and valid information for each of the locators required by subdivision (1).

(3) The recipient for whom the claim is submitted is eligible for Medicaid on the date for which the service is billed.

(4) The office has approved the level of care for:
(A) the recipient; and
(B) the facility;
for the dates for which the service is billed.

(5) The provider is eligible to render service on the date for which the service is billed.

(6) The claim does not duplicate a claim already paid.

(b) The definition under subsection (a):

(1) includes a claim with errors originating in the state's claims processing system; and

(2) does not include a claim:
(A) from a provider who is under investigation for fraud or abuse (as used in 42 CFR 447.45(b)); or
(B) under review for medical necessity.

As added by P.L.107-1996, SEC.3 and P.L.257-1996, SEC.3.

IC 12-15-13-0.7
Addition, deletion, or modification of locators

Sec. 0.7. The office may adopt rules under IC 4-22-2 that add, delete, or modify the locators contained in section 0.6(a)(1) of this chapter as necessary to conform with:

(1) changes in federal law or regulation; or

(2) directives from the United States Centers for Medicare and Medicaid Services.

As added by P.L.107-1996, SEC.4 and P.L.257-1996, SEC.4. Amended by P.L.66-2002, SEC.3.

IC 12-15-13-1

Payment, denial, or suspension of claims submitted by nursing facilities; time; notice of suspension or denial

Sec. 1. (a) This section applies only to claims submitted for payment by nursing facilities.

(b) The office shall pay, deny, or suspend each claim submitted by a provider for payment under the Medicaid program not more than:

(1) twenty-one (21) days after the date a claim that is filed electronically; or

(2) thirty (30) days after the date a claim that is filed on paper;

is received by the office or, if IC 12-15-30 applies, by the contractor under IC 12-15-30.

(c) The office shall pay each clean claim.

(d) The office may deny or suspend a claim that is not a clean claim. If the office denies a provider's claim for payment, the office shall notify the provider of each reason the claim was denied.

(e) If the office suspends a provider's claim for payment under the Medicaid program, the office shall notify the provider of each reason the claim was suspended.

As added by P.L.2-1992, SEC.9. Amended by P.L.10-1994, SEC.4; P.L.107-1996, SEC.5; P.L.257-1996, SEC.5.

IC 12-15-13-1.5

Payment of interest on claims submitted by nursing facilities

Sec. 1.5. (a) This section applies only to claims submitted for payment by nursing facilities.

(b) If the office:

(1) fails to pay a clean claim in the time required under section 1(b) of this chapter; or

(2) denies or suspends a claim that is subsequently determined to have been a clean claim when the claim was filed;

the office shall pay the provider interest on the Medicaid allowable amount of the claim.

(c) Interest paid under subsection (b):

(1) accrues beginning:

(A) twenty-two (22) days after the date the claim is filed under section 1(b)(1) of this chapter; or

(B) thirty-one (31) days after the date the claim is filed under section 1(b)(2) of this chapter; and

(2) stops accruing on the date the office pays the claim.

(d) The office shall pay interest under subsection (b) at the same rate as determined under IC 12-15-21-3(7)(A).

As added by P.L.107-1996, SEC.6 and P.L.257-1996, SEC.6. Amended by P.L.42-2011, SEC.29.

IC 12-15-13-1.6

Payment, denial, or suspension of claims; notice of suspension or denial

Sec. 1.6. (a) This section does not apply to claims submitted for payment by nursing facilities.

(b) The office shall pay or deny each clean claim in accordance with section 1.7 of this chapter.

(c) The office shall deny or suspend each claim that is not a clean claim in accordance with subsection (d).

(d) The office shall deny or suspend each claim that is:

(1) not a clean claim; and

(2) submitted by a provider for payment under the Medicaid program;

not more than thirty (30) days after the date the claim is received by the office or, if IC 12-15-30 applies, by the contractor under IC 12-15-30.

(e) If the office denies a provider's claim for payment under subsection (d) or section 1.7 of this chapter, the office shall notify the provider of each reason the claim was denied.

(f) If the office suspends a provider's claim for payment under subsection (d), the office shall notify the provider of each reason the claim was suspended.

As added by P.L.107-1996, SEC.7 and P.L.257-1996, SEC.7.

IC 12-15-13-1.7

Timing of payment or denial of claims; payment of interest

Sec. 1.7. (a) This section does not apply to claims submitted for payment by nursing facilities.

(b) The office shall pay or deny each clean claim as follows:

(1) If the claim is filed electronically, within twenty-one (21) days after the date the claim is received by:

(A) the office; or

(B) a contractor of the office under IC 12-15-30, if IC 12-15-30 applies.

(2) If the claim is filed on paper, within thirty (30) days after the date the claim is received by:

(A) the office; or

(B) a contractor of the office under IC 12-15-30, if IC 12-15-30 applies.

(c) If:

(1) the office fails to pay or deny a clean claim in the time required under subsection (b); and

(2) the office or a contractor of the office under IC 12-15-30 subsequently pays the claim;

the office shall pay the provider that submitted the claim interest on the Medicaid allowable amount of the claim paid under this section.

(d) Interest paid under subsection (c) shall:

(1) begin accruing:

(A) twenty-two (22) days after the date the claim is filed under subsection (b)(1); or

(B) thirty-one (31) days after the date the claim is filed under subsection (b)(2); and

(2) stop accruing on the date the claim is paid.

(e) In paying interest under subsection (c), the office shall use the same interest rate as provided in IC 12-15-21-3(7)(A).

As added by P.L.107-1996, SEC.8 and P.L.257-1996, SEC.8.

IC 12-15-13-2
Payments to providers; requirements; federal law or regulations specifying reimbursement criteria

Sec. 2. (a) Except as provided in IC 12-15-14 and IC 12-15-15, payments to Medicaid providers must be:

(1) consistent with efficiency, economy, and quality of care; and
(2) sufficient to enlist enough providers so that care and services are available under Medicaid, at least to the extent that such care and services are available to the general population in the geographic area.

(b) If federal law or regulations specify reimbursement criteria, payment shall be made in compliance with those criteria.

As added by P.L.2-1992, SEC.9. Amended by P.L.278-1993(ss), SEC.27.

IC 12-15-13-3
Repealed

(Repealed by P.L.229-2011, SEC.270.)

IC 12-15-13-3.5
Recovery of overpayment to noninstitutional provider; appeal

Sec. 3.5. (a) As used in this section, "noninstitutional provider" means any Medicaid provider other than the following:

(1) A health facility licensed under IC 16-28.
(2) An ICF/MR (as defined in IC 16-29-4-2).

(b) If the office of the secretary or the office of the secretary's designee believes that an overpayment to a noninstitutional provider has occurred, the office of the secretary or the office of the secretary's designee may submit to the noninstitutional provider a preliminary review of draft audit findings.

(c) A noninstitutional provider that receives a preliminary review of draft audit findings under subsection (b) may request administrative reconsideration of the preliminary review of draft audit findings not later than forty-five (45) days after the issuance of the preliminary review of draft audit findings. The noninstitutional provider may submit comments along with the request for administrative reconsideration. The noninstitutional provider must request administrative reconsideration before filing an appeal.

(d) Following administrative reconsideration of the preliminary review of draft audit findings and any comments submitted along with the noninstitutional provider's request for administrative consideration and if the office of the secretary or the office of the secretary's designee believes that an overpayment has occurred, the office of the secretary or the office of the secretary's designee shall notify the noninstitutional provider in writing that the office of the secretary or the office of the secretary's designee:

(1) believes that the overpayment has occurred; and
(2) is issuing a final calculation of the overpayment.

(e) A noninstitutional provider who receives a notice under subsection (d) may elect to do one (1) of the following:

(1) Repay the amount of the final calculation not later than three hundred (300) days after the provider received the notice under subsection (d), including interest:

(A) due from the noninstitutional provider; and

(B) accruing from the date of overpayment.

(2) Request a hearing by filing an administrative appeal not later than sixty (60) days after receiving the notice under subsection (d) and repay the amount of the final calculation of the overpayment under subsection (d) not later than three hundred (300) days after receiving the notice under subsection (d).

(f) If:

(1) a noninstitutional provider elects to proceed under subsection (e)(2); and

(2) the office of the secretary or the office of the secretary's designee determines after the hearing and any subsequent appeal that the noninstitutional provider does not owe the money that the office of the secretary or the office of the secretary's designee believed the noninstitutional provider owed;

the office of the secretary or the office of the secretary's designee shall return the amount of the alleged overpayment, and any interest paid by the noninstitutional provider, and pay the noninstitutional provider interest on the money from the date of the noninstitutional provider's repayment.

(g) Interest that is due under this section shall be paid at a rate that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c) as follows:

(1) Interest due from a noninstitutional provider to the state shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(2) Interest due from the state to a noninstitutional provider shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(h) Interest on an overpayment to a noninstitutional provider is not due from the noninstitutional provider if the overpayment is the result of an error of:

(1) the office; or

(2) a contractor of the office;

as determined by the office of the secretary or the office of the secretary's designee.

(i) If interest on an overpayment to a noninstitutional provider is due from the noninstitutional provider, the secretary or the secretary's designee may, in the course of negotiations with the noninstitutional provider regarding an appeal filed under subsection (e), reduce the amount of interest due from the noninstitutional provider.

(j) Proceedings under this section are subject to IC 4-21.5.

As added by P.L.229-2011, SEC.125.

IC 12-15-13-4

Recovery of overpayment to institutional provider; appeal

Sec. 4. (a) As used in this section, "institutional provider" means the following:

(1) A health facility that is licensed under IC 16-28.

(2) An ICF/MR (as defined in IC 16-29-4-2).

(b) If the office of the secretary or the office of the secretary's designee believes that an overpayment to an institutional provider has occurred, the office of the secretary or the office of the secretary's designee may do the following:

(1) Submit to the institutional provider a draft of the audit findings and accept comments from the institutional provider for consideration by the office of the secretary or the office of the secretary's designee before the audit findings are finalized.

(2) Finalize the audit findings and issue the preliminary recalculated Medicaid rate.

(c) An institutional provider that receives a preliminary recalculated Medicaid rate under subsection (b)(2) may request administrative reconsideration of the preliminary recalculated Medicaid rate not later than forty-five (45) days after the issuance of the preliminary recalculated rate. The institutional provider must request administrative reconsideration before filing an appeal.

(d) Following reconsideration of an institutional provider's comments, and if the office of the secretary or the office of the secretary's designee believes that an overpayment has occurred, the office of the secretary or the office of the secretary's designee shall notify the institutional provider in writing that the office of the secretary or the office of the secretary's designee:

(1) believes that the overpayment has occurred; and

(2) is issuing a final recalculated Medicaid rate.

(e) Upon the next payment cycle, the office of the secretary or the office of the secretary's designee shall retroactively implement the final recalculated Medicaid rate.

(f) If the institutional provider is dissatisfied with the reconsideration response issued by the office of the secretary or the office of the secretary's designee, the institutional provider may request a hearing by filing an appeal with the office of the secretary not later than sixty (60) days after the issuance of the reconsideration response.

(g) If an institutional provider requests a hearing under subsection (f) and the office of the secretary or the office of the secretary's designee determines after the hearing and any subsequent appeal that the institutional provider does not owe the money that the office of the secretary or the office of the secretary's designee believed the institutional provider owed, the office of the secretary or the office of the secretary's designee shall repay the following to the institutional provider not later than thirty (30) days after the completion of the hearing:

(1) The amount of the alleged overpayment.

(2) Any interest paid by the institutional provider.

(3) Interest on the money described in subdivisions (1) and (2)

from the date of the institutional provider's repayment.

(h) Interest due under this section by either the institutional provider or the office of the secretary shall be paid at a rate that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c) at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(i) Interest on an overpayment to an institutional provider is not due from the institutional provider if the office of the secretary or the office of the secretary's designee determines that the overpayment is the result of an error by the following:

(1) The office of the secretary.

(2) A contractor of the office of the secretary.

(j) If interest on an overpayment to an institutional provider is due from the institutional provider, the office of the secretary or the office of the secretary's designee may, in the course of negotiations with the institutional provider concerning an appeal filed under this section, reduce the amount of interest due from the institutional provider.

As added by P.L.229-2011, SEC.126.

IC 12-15-13-6

Notices or bulletins; timing; noncompliance

Sec. 6. (a) Except as provided by IC 12-15-35-50, a notice or bulletin that is issued by:

(1) the office;

(2) a contractor of the office; or

(3) a managed care plan under the office;

concerning a change to the Medicaid program, including a change to prior authorization, claims processing, payment rates, and medical policies, that does not require use of the rulemaking process under IC 4-22-2 may not become effective until thirty (30) days after the date the notice or bulletin is communicated to the parties affected by the notice or bulletin.

(b) The office must provide a written notice or bulletin described in subsection (a) within five (5) business days after the date on the notice or bulletin.

(c) If the office, a contractor of the office, or a managed care plan under the office does not comply with the requirements in subsections (a) and (b):

(1) the notice or bulletin is void;

(2) a claim may not be denied because the claim does not comply with the void notice or bulletin; and

(3) the office, a contractor of the office, or a managed care plan under the office may not reissue the bulletin or notice for thirty (30) days unless the change is required by the federal government to be implemented earlier.

As added by P.L.42-1995, SEC.22. Amended by P.L.187-2007, SEC.2; P.L.15-2009, SEC.1; P.L.153-2011, SEC.17.

IC 12-15-13-7

Permitted forms

Sec. 7. (a) The office and an entity with which the office contracts for the payment of claims shall accept claims submitted on any of the following forms by an individual or organization that is a contractor or subcontractor of the office:

(1) CMS-1500 or its subsequent form.

(2) CMS-1450 (UB04) or its subsequent form.

(3) American Dental Association (ADA) claim form.

(4) Pharmacy and compound drug form.

(b) The office and an entity with which the office contracts for the payment of claims:

(1) may designate as acceptable claim forms other than a form listed in subsection (a); and

(2) may not mandate the use of a crossover claim form.

As added by P.L.256-2001, SEC.3. Amended by P.L.27-2011, SEC.2.

IC 12-15-13-7.2

Use of diagnostic or procedure codes

Sec. 7.2. (a) As used in this section, "provider" has the meaning set forth in IC 27-8-11-1.

(b) Not more than ninety (90) days after the effective date of a diagnostic or procedure code described in this subsection:

(1) the office shall for all purposes begin using the most current version of the:

(A) current procedural terminology (CPT);

(B) international classification of diseases (ICD);

(C) American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM);

(D) current dental terminology (CDT);

(E) Healthcare common procedure coding system (HCPCS); and

(F) third party administrator (TPA);

codes under which the office processes claims for services provided under the Medicaid program; and

(2) a provider shall begin using the most current version of the:

(A) current procedural terminology (CPT);

(B) international classification of diseases (ICD);

(C) American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM);

(D) current dental terminology (CDT);

(E) Healthcare common procedure coding system (HCPCS); and

(F) third party administrator (TPA);

codes under which the provider submits claims for payment for services provided under the Medicaid program.

(c) If a provider provides services that are covered under the Medicaid program:

(1) after the effective date of the most current version of a diagnostic or procedure code described in subsection (b); and

(2) before the office begins using the most current version of the diagnostic or procedure code;

the office shall reimburse the provider under the version of the diagnostic or procedure code that was in effect on the date that the services were provided.

As added by P.L.161-2001, SEC.2. Amended by P.L.66-2002, SEC.4; P.L.27-2011, SEC.3.

IC 12-15-14

Chapter 14. Payment to Nursing Facilities

IC 12-15-14-1

Payment criteria; uniformity

Sec. 1. (a) Except as provided in subsection (b), payment of services for nursing facilities shall be determined under the same criteria and in a uniform manner for all facilities providing services.

(b) In addition to reimbursement under the uniform rates of payment developed for all nursing facilities under subsection (a):

(1) nursing facilities that are owned and operated by a governmental entity may receive any additional payments that are permitted under applicable federal statutes and regulations; and

(2) nursing facilities that are not owned and operated by a governmental entity may receive any additional payments that are permitted under applicable federal statutes and regulations.

(c) Each governmental transfer or other payment mechanism that the office implements under this chapter must maximize the amount of federal financial participation that the state can obtain through the intergovernmental transfer or other payment mechanism.

As added by P.L.2-1992, SEC.9. Amended by P.L.160-2001, SEC.1.

IC 12-15-14-2

Payment of nursing facilities under 42 U.S.C. 1396a(a)(13)(A); non-Medicaid revenue information; complete balance sheet data

Sec. 2. (a) Payment of nursing facility services shall be determined in accordance with 42 U.S.C. 1396a(a)(13)(A) and any other applicable federal statutes or regulations governing such payments.

(b) The office may not require a provider to submit non-Medicaid revenue information in the provider's annual historical financial report. Non-Medicaid revenue information obtained by Medicaid auditors in the course of their audits may not be used for public reporting purposes.

(c) The office may only request complete balance sheet data that applies directly to the provider's facility. Complete balance sheet data acquired by the office under this subsection:

(1) is confidential; and

(2) may only be disclosed:

(A) in the aggregate; or

(B) for an individual facility;

if the office removes all non-Medicaid data.

(d) The office of the secretary shall adopt rules under IC 4-22-2 to implement the reimbursement system required by this section.

As added by P.L.2-1992, SEC.9. Amended by P.L.152-1995, SEC.11; P.L.257-1996, SEC.10; P.L.126-1998, SEC.3; P.L.160-2001, SEC.2.

IC 12-15-14-2.5

Prohibition on reimbursement for reservation of bed for hospitalized or otherwise absent Medicaid recipient

Sec. 2.5. (a) The office may not reimburse a nursing facility provider for reserving a bed for a Medicaid recipient when the Medicaid recipient is not present in the nursing facility due to a hospital stay or leave of absence for therapeutic reasons.

(b) Not later than September 30, 2011, the office shall submit a state Medicaid plan amendment to the federal Centers for Medicare and Medicaid Services to implement this section.

As added by P.L.229-2011, SEC.127.

IC 12-15-14-3
Repealed

(Repealed by P.L.2-1997, SEC.89.)

IC 12-15-14-4
Repealed

(Repealed by P.L.2-1997, SEC.89.)

IC 12-15-14-5
Repealed

(Repealed by P.L.2-1997, SEC.89.)

IC 12-15-14.5
Repealed

(Repealed by P.L.153-2011, SEC.20.)

IC 12-15-15

Chapter 15. Payment to Hospitals; General

IC 12-15-15-1

Services at hospitals licensed under IC 16-21; rates established under rules

Sec. 1. Payment of a service provided in a hospital licensed under IC 16-21 shall be determined in accordance with a payment rate for the service that is established under rules adopted under IC 4-22-2 by the secretary in conjunction with the office.

As added by P.L.2-1992, SEC.9. Amended by P.L.27-1992, SEC.11; P.L.2-1993, SEC.93.

IC 12-15-15-1.1

Reimbursement to hospitals for inpatient hospital services; intergovernmental transfers; calculating Medicaid shortfall

Sec. 1.1. (a) This section applies to a hospital that is:

(1) licensed under IC 16-21; and

(2) established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

This section does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10.

(b) For a state fiscal year ending after June 30, 2003, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the aggregate inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

STEP TWO: For the aggregate inpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the office for the inpatient hospital services described in STEP ONE under Medicare payment principles.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Subject to subsection (g), from the amount calculated under STEP FOUR, allocate to a hospital established and operated under IC 16-22-8 an amount not to exceed one hundred percent (100%) of the difference between:

(A) the total cost for the hospital's provision of inpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year; and

(B) the total payment to the hospital for its provision of

inpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP SIX: Subtract the amount calculated under STEP FIVE from the amount calculated under STEP FOUR.

STEP SEVEN: Distribute an amount equal to the amount calculated under STEP SIX to the eligible hospitals established and operated under IC 16-22-2 or IC 16-23 described in subsection (c) in an amount not to exceed each hospital's Medicaid shortfall as defined in subsection (f).

(c) Subject to subsection (e), reimbursement for a state fiscal year under this section consists of payments made after the close of each state fiscal year. A hospital is not eligible for a payment described in this subsection unless an intergovernmental transfer or certification of expenditures is made under subsection (d).

(d) Subject to subsection (e):

(1) an intergovernmental transfer may be made by or on behalf of the hospital; or

(2) a certification of expenditures as eligible for federal financial participation may be made;

after the close of each state fiscal year. An intergovernmental transfer under this subsection must be made to the Medicaid indigent care trust fund in an amount equal to a percentage, as determined by the office, of the amount to be distributed to the hospital under this section. The office shall use the intergovernmental transfer to fund payments made under this section.

(e) A hospital that makes a certification of expenditures or makes or has an intergovernmental transfer made on the hospital's behalf under this section may appeal under IC 4-21.5 the amount determined by the office to be paid the hospital under subsection (b). The periods described in subsections (c) and (d) for the hospital or another entity to make an intergovernmental transfer or certification of expenditures are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5. The distribution to other hospitals under subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based upon estimates and trends calculated by the office.

(f) For purposes of this section:

(1) the Medicaid shortfall of a hospital established and operated under IC 16-22-2 or IC 16-23 is calculated as follows:

STEP ONE: The office shall identify the inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospital.

STEP TWO: For the inpatient hospital services identified

under STEP ONE, the office shall calculate the payments made under this article and under the state Medicaid plan to the hospital, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid by the office for the inpatient hospital services described in STEP ONE under Medicare payment principles; and

(2) a hospital's Medicaid shortfall is equal to the amount by which the amount calculated in STEP THREE of subdivision (1) is greater than the amount calculated in STEP TWO of subdivision (1).

(g) The actual distribution of the amount calculated under STEP FIVE of subsection (b) to a hospital established and operated under IC 16-22-8 shall be made under the terms and conditions provided for the hospital in the state plan for medical assistance. Payment to a hospital under STEP FIVE of subsection (b) is not a condition precedent to the tender of payments to hospitals under STEP SEVEN of subsection (b).

As added by P.L.126-1998, SEC.4. Amended by P.L.113-2000, SEC.2; P.L.283-2001, SEC.19; P.L.66-2002, SEC.5; P.L.120-2002, SEC.13; P.L.1-2003, SEC.56; P.L.255-2003, SEC.16; P.L.212-2007, SEC.1; P.L.218-2007, SEC.11; P.L.229-2011, SEC.128; P.L.205-2013, SEC.190.

IC 12-15-15-1.3

Reimbursement to hospitals for outpatient hospital services; intergovernmental transfers; calculating Medicaid shortfall

Sec. 1.3. (a) This section applies to a hospital that is:

(1) licensed under IC 16-21; and

(2) established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

This section does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10.

(b) For a state fiscal year ending after June 30, 2003, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the aggregate outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

STEP TWO: For the aggregate outpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the

office under Medicare payment principles for the outpatient hospital services described in STEP ONE.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Subject to subsection (g), from the amount calculated under STEP FOUR, allocate to a hospital established and operated under IC 16-22-8 an amount not to exceed one hundred percent (100%) of the difference between:

(A) the total cost for the hospital's provision of outpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year; and

(B) the total payment to the hospital for its provision of outpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP SIX: Subtract the amount calculated under STEP FIVE from the amount calculated under STEP FOUR.

STEP SEVEN: Distribute an amount equal to the amount calculated under STEP SIX to the eligible hospitals established and operated under IC 16-22-2 or IC 16-23 described in subsection (c) in an amount not to exceed each hospital's Medicaid shortfall as defined in subsection (f).

(c) A hospital is not eligible for a payment described in this section unless:

(1) an intergovernmental transfer is made by the hospital or on behalf of the hospital; or

(2) the hospital or another entity certifies the hospital's expenditures as eligible for federal financial participation.

(d) Subject to subsection (e):

(1) an intergovernmental transfer may be made by or on behalf of the hospital; or

(2) a certification of expenditures as eligible for federal financial participation may be made;

after the close of each state fiscal year. An intergovernmental transfer under this subsection must be made to the Medicaid indigent care trust fund in an amount equal to a percentage, as determined by the office, of the amount to be distributed to the hospital under subsection (b). The office shall use the intergovernmental transfer to fund payments made under this section.

(e) A hospital that makes a certification of expenditures or makes or has an intergovernmental transfer made on the hospital's behalf under this section may appeal under IC 4-21.5 the amount determined by the office to be paid by the hospital under subsection (b). The periods described in subsections (c) and (d) for the hospital or other entity to make an intergovernmental transfer or certification of expenditures are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5. The distribution to other hospitals under subsection (b) may not be delayed due to an administrative appeal or judicial review instituted

by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals must be made. A partial distribution may be calculated by the office based upon estimates and trends.

(f) For purposes of this section:

(1) the Medicaid shortfall of a hospital established and operated under IC 16-22-2 or IC 16-23 is calculated as follows:

STEP ONE: The office shall identify the outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospital.

STEP TWO: For the outpatient hospital services identified under STEP ONE, the office shall calculate the payments made under this article and under the state Medicaid plan to the hospital, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid by the office for the outpatient hospital services described in STEP ONE under Medicare payment principles; and

(2) a hospital's Medicaid shortfall is equal to the amount by which the amount calculated in STEP THREE of subdivision (1) is greater than the amount calculated in STEP TWO of subdivision (1).

(g) The actual distribution of the amount calculated under STEP FIVE of subsection (b) to a hospital established and operated under IC 16-22-8 shall be made under the terms and conditions provided for the hospital in the state plan for medical assistance. Payment to a hospital under STEP FIVE of subsection (b) is not a condition precedent to the tender of payments to hospitals under STEP SEVEN of subsection (b).

As added by P.L.120-2002, SEC.14. Amended by P.L.255-2003, SEC.17; P.L.212-2007, SEC.2; P.L.218-2007, SEC.12; P.L.229-2011, SEC.129; P.L.205-2013, SEC.191.

IC 12-15-15-1.5

Additional reimbursements to certain hospitals; appeal of amount of distribution

Sec. 1.5. (a) This section applies to a hospital that:

(1) is licensed under IC 16-21;

(2) is not a unit of state or local government; and

(3) is not owned or operated by a unit of state or local government.

This section does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10.

(b) For a state fiscal year ending after June 30, 2003, and before July 1, 2007, in addition to reimbursement received under section 1 of this chapter, a hospital eligible under this section is entitled to

reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the total inpatient hospital services and the total outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospitals described in subsection (a).

STEP TWO: For the total inpatient hospital services and the total outpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals described in subsection (a), excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the office for the inpatient hospital services and the outpatient hospital services identified in STEP ONE under Medicare payment principles.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Distribute an amount equal to the amount calculated under STEP FOUR to the eligible hospitals described in subsection (a) as follows:

(A) Subject to the availability of funds under IC 12-15-20-2(8)(D) to serve as the nonfederal share of such payment, the first ten million dollars ($10,000,000) of the amount calculated under STEP FOUR for a state fiscal year shall be paid to a hospital described in subsection (a) that has more than sixty thousand (60,000) Medicaid inpatient days.

(B) Following the payment to the hospital under clause (A) and subject to the availability of funds under IC 12-15-20-2(8)(D) to serve as the nonfederal share of such payments, the remaining amount calculated under STEP FOUR for a state fiscal year shall be paid to all hospitals described in subsection (a). The payments shall be made on a pro rata basis based on the hospitals' Medicaid inpatient days or other payment methodology approved by the Centers for Medicare and Medicaid Services. For purposes of this clause, a hospital's Medicaid inpatient days are the hospital's in-state and paid Medicaid fee for service and managed care days for the state fiscal year for which services are identified under STEP ONE, as determined by the office.

(C) Subject to IC 12-15-20.7, in the event the entirety of the amount calculated under STEP FOUR is not distributed following the payments made under clauses (A) and (B), the remaining amount may be paid to hospitals described in subsection (a) that are eligible under this clause. A hospital is eligible for a payment under this clause only if the nonfederal share of the hospital's payment is provided by or on behalf of the hospital. The remaining amount shall be paid to those eligible hospitals:

(i) on a pro rata basis in relation to all hospitals eligible under this clause based on the hospitals' Medicaid inpatient days; or

(ii) other payment methodology determined by the office and approved by the Centers for Medicare and Medicaid Services.

(c) As used in this subsection, "Medicaid supplemental payments" means Medicaid payments for hospitals that are in addition to Medicaid fee-for-service payments, Medicaid risk-based managed care payments, and Medicaid disproportionate share payments, and that are included in the Medicaid state plan, including Medicaid safety-net payments, and payments made under this section and sections 1.1, 1.3, 9, and 9.5 of this chapter. For a state fiscal year ending after June 30, 2007, in addition to the reimbursement received under section 1 of this chapter, a hospital eligible under this section is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the total inpatient hospital services and the total outpatient hospital services reimbursable under this article and under the state Medicaid plan that were provided during the state fiscal year for all hospitals described in subsection (a).

STEP TWO: For the total inpatient hospital services and the total outpatient hospital services identified in STEP ONE, the office shall calculate the total payments made under this article and under the state Medicaid plan to all hospitals described in subsection (a). A calculation under this STEP excludes a payment made under the following:

(A) IC 12-15-16.

(B) IC 12-15-17.

(C) IC 12-15-19.

STEP THREE: The office shall calculate, under Medicare payment principles, a reasonable estimate of the total amount that would have been paid by the office for the inpatient hospital services and the outpatient hospital services identified in STEP ONE.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Distribute an amount equal to the amount calculated under STEP FOUR to the eligible hospitals described in subsection (a) as follows:

(A) As used in this clause, "Medicaid inpatient days" are the hospital's in-state paid Medicaid fee for service and risk-based managed care days for the state fiscal year for which services are identified under STEP ONE, as determined by the office. Subject to the availability of funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(c) and remaining in the Medicaid indigent care trust fund under IC 12-15-20-2(8)(G) to serve as the nonfederal share of the payments, the amount calculated under STEP FOUR for a state fiscal year shall be

paid to all hospitals described in subsection (a). The payments shall be made on a pro rata basis, based on the hospitals' Medicaid inpatient days or in accordance with another payment methodology determined by the office and approved by the Centers for Medicare and Medicaid Services.

(B) Subject to IC 12-15-20.7, if the entire amount calculated under STEP FOUR is not distributed following the payments made under clause (A), the remaining amount shall be paid as described in clauses (C) and (D) to a hospital that is described in subsection (a) and that is described as eligible under this clause. A hospital is eligible for a payment under clause (C) only if the hospital:

(i) has less than sixty thousand (60,000) Medicaid inpatient days annually;

(ii) was eligible for Medicaid disproportionate share hospital payments in the state fiscal year ending June 30, 1998, or the hospital met the office's Medicaid disproportionate share payment criteria based upon state fiscal year 1998 data and received a Medicaid disproportionate share payment for the state fiscal year ending June 30, 2001; and

(iii) received a Medicaid disproportionate share payment under IC 12-15-19-2.1 for state fiscal years 2001, 2002, 2003, and 2004.

The payment amount under clause (C) for an eligible hospital is subject to the availability of the nonfederal share of the hospital's payment being provided by the hospital or on behalf of the hospital.

(C) For state fiscal years ending after June 30, 2007, but before July 1, 2009, payments to eligible hospitals described in clause (B) shall be made as follows:

(i) The payment to an eligible hospital that merged two (2) hospitals under a single Medicaid provider number effective January 1, 2004, shall equal one hundred percent (100%) of the hospital's hospital-specific limit for the state fiscal year ending June 30, 2005, when the payment is combined with any Medicaid disproportionate share payment made under IC 12-15-19-2.1, Medicaid, and other Medicaid supplemental payments, paid or to be paid to the hospital for a state fiscal year.

(ii) The payment to an eligible hospital described in clause (B) other than a hospital described in item (i) shall equal one hundred percent (100%) of the hospital's hospital specific limit for the state fiscal year ending June 30, 2004, when the payment is combined with any Medicaid disproportionate share payment made under IC 12-15-19-2.1, Medicaid, and other Medicaid supplemental payments, paid or to be paid to the hospital for a state fiscal year.

(D) For state fiscal years beginning after June 30, 2009, payments to an eligible hospital described in clause (B) shall be made in a manner determined by the office.

(E) Subject to IC 12-15-20.7, if the entire amount calculated under STEP FOUR is not distributed following the payments made under clause (A) and clauses (C) or (D), the remaining amount may be paid as described in clause (F) to a hospital described in subsection (a) that is described as eligible under this clause. A hospital is eligible for a payment for a state fiscal year under clause (F) if the hospital:

(i) is eligible to receive Medicaid disproportionate share payments for the state fiscal year for which the Medicaid disproportionate share payment is attributable under IC 12-15-19-2.1, for a state fiscal year ending after June 30, 2007; and

(ii) does not receive a payment under clauses (C) or (D) for the state fiscal year.

A payment to a hospital under this clause is subject to the availability of nonfederal matching funds.

(F) Payments to eligible hospitals described in clause (E) shall be made:

(i) to best use federal matching funds available for hospitals that are eligible for Medicaid disproportionate share payments under IC 12-15-19-2.1; and

(ii) by using a methodology that allocates available funding under this clause, Medicaid supplemental payments, and payments under IC 12-15-19-2.1, in a manner in which all hospitals eligible under clause (E) receive payments in a manner that takes into account the situation of eligible hospitals that have historically qualified for Medicaid disproportionate share payments and ensures that payments for eligible hospitals are equitable.

(G) If the Centers for Medicare and Medicaid Services does not approve the payment methodologies in clauses (A) through (F), the office may implement alternative payment methodologies that are eligible for federal financial participation to implement a program consistent with the payments for hospitals described in clauses (A) through (F).

(d) A hospital described in subsection (a) may appeal under IC 4-21.5 the amount determined by the office to be paid to the hospital under STEP FIVE of subsections (b) or (c). The distribution to other hospitals under STEP FIVE of subsection (b) or (c) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under STEP FIVE of subsection (b) or (c) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based on estimates and trends

calculated by the office.
As added by P.L.255-2003, SEC.18. Amended by P.L.212-2007, SEC.3; P.L.218-2007, SEC.13; P.L.3-2008, SEC.92; P.L.229-2011, SEC.130; P.L.205-2013, SEC.192.

IC 12-15-15-1.6
Alternative payment methodology for payments to hospitals

Sec. 1.6. (a) This section applies only if the office determines, based on information received from the United States Centers for Medicare and Medicaid Services, that payments made under section 1.5(b) STEP FIVE (A), (B), or (C) of this chapter will not be approved for federal financial participation. This section does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10.

(b) If the office determines that payments made under section 1.5(b) STEP FIVE (A) of this chapter will not be approved for federal financial participation, the office may make alternative payments to payments under section 1.5(b) STEP FIVE (A) of this chapter if:

(1) the payments for a state fiscal year are made only to a hospital that would have been eligible for a payment for that state fiscal year under section 1.5(b) STEP FIVE (A) of this chapter; and

(2) the payments for a state fiscal year to each hospital are an amount that is as equal as possible to the amount each hospital would have received under section 1.5(b) STEP FIVE (A) of this chapter for that state fiscal year.

(c) If the office determines that payments made under section 1.5(b) STEP FIVE (B) of this chapter will not be approved for federal financial participation, the office may make alternative payments to payments under section 1.5(b) STEP FIVE (B) of this chapter if:

(1) the payments for a state fiscal year are made only to a hospital that would have been eligible for a payment for that state fiscal year under section 1.5(b) STEP FIVE (B) of this chapter; and

(2) the payments for a state fiscal year to each hospital are an amount that is as equal as possible to the amount each hospital would have received under section 1.5(b) STEP FIVE (B) of this chapter for that state fiscal year.

(d) If the office determines that payments made under section 1.5(b) STEP FIVE (C) of this chapter will not be approved for federal financial participation, the office may make alternative payments to payments under section 1.5(b) STEP FIVE (C) of this chapter if:

(1) the payments for a state fiscal year are made only to a hospital that would have been eligible for a payment for that state fiscal year under section 1.5(b) STEP FIVE (C) of this chapter; and

(2) the payments for a state fiscal year to each hospital are an amount that is as equal as possible to the amount each hospital would have received under section 1.5(b) STEP FIVE (C) of

this chapter for that state fiscal year.

(e) If the office determines, based on information received from the United States Centers for Medicare and Medicaid Services, that payments made under subsection (b), (c), or (d) will not be approved for federal financial participation, the office shall use the funds that would have served as the nonfederal share of these payments for a state fiscal year to serve as the nonfederal share of a payment program for hospitals to be established by the office. The payment program must distribute payments to hospitals for a state fiscal year based upon a methodology determined by the office to be equitable under the circumstances.

As added by P.L.78-2004, SEC.4. Amended by P.L.229-2011, SEC.131; P.L.205-2013, SEC.193.

IC 12-15-15-2

Rates adopted for hospital licensed under IC 16-21; prospective or retrospective application

Sec. 2. The rates adopted under this chapter for a hospital licensed under IC 16-21 may be the following:

(1) Prospective.

(2) Retroactive.

(3) A combination of prospective and retroactive.

As added by P.L.2-1992, SEC.9. Amended by P.L.2-1993, SEC.94.

IC 12-15-15-2.5

Payment for physician services in emergency department

Sec. 2.5. (a) Payment for physician services provided in the emergency department of a hospital licensed under IC 16-21 must be at a rate of one hundred percent (100%) of rates payable under the Medicaid fee structure.

(b) The payment under subsection (a) must be calculated using the same methodology used for all other physicians participating in the Medicaid program.

(c) For services rendered and documented in an individual's medical record, physicians must be reimbursed for federally required medical screening exams that are necessary to determine the presence of an emergency using the appropriate Current Procedural Terminology (CPT) codes 99281, 99282, or 99283 described in the Current Procedural Terminology Manual published annually by the American Medical Association, without authorization by the enrollee's primary medical provider.

(d) Payment for all other physician services provided in an emergency department of a hospital to enrollees in the Medicaid primary care case management program must be at a rate of one hundred percent (100%) of the Medicaid fee structure rates, provided the service is authorized, prospectively or retrospectively, by the enrollee's primary medical provider.

(e) This section does not apply to a person enrolled in the Medicaid risk-based managed care program.

As added by P.L.153-1995, SEC.10. Amended by P.L.119-1997,

SEC.5; P.L.245-1999, SEC.1; P.L.223-2001, SEC.10.

IC 12-15-15-3
Services provided at hospitals operating under IC 16-24-1; prospective payment rate

Sec. 3. Payment of a service provided in a hospital operating under IC 16-24-1 shall be determined in accordance with a prospective payment rate for the service.

As added by P.L.2-1992, SEC.9. Amended by P.L.2-1993, SEC.95.

IC 12-15-15-4
Per diem rate for services provided in hospitals operating under IC 16-24-1

Sec. 4. The office shall establish a per diem rate for the service provided in a hospital operating under IC 16-24-1 under rules adopted under IC 4-22-2 by the secretary.

As added by P.L.2-1992, SEC.9. Amended by P.L.2-1993, SEC.96.

IC 12-15-15-4.5
Payment for HIV test; limitation

Sec. 4.5. Payment to a hospital for a test required under IC 16-41-6-4 must be in an amount equal to the hospital's actual cost of performing the test and may not reduce or replace the reimbursement of other services that are provided to the patient under the state Medicaid program. The total cost to the state may not be more than twenty-four thousand dollars ($24,000) in a state fiscal year.

As added by P.L.237-2003, SEC.2.

IC 12-15-15-5
Repealed

(Repealed by P.L.126-1998, SEC.22.)

IC 12-15-15-6
Fees in addition to infant delivery fees

Sec. 6. (a) In addition to a payment due to a hospital for the delivery of a newborn infant, the office shall tender a payment to the hospital for the hospital's collection, handling, and delivery of a specimen for testing under IC 16-41-17-2(a)(10).

(b) Payment to a hospital required under subsection (a) must be in an amount equal to the total of the following costs:

(1) The cost incurred by the hospital to collect, handle, and deliver the specimen obtained for testing under IC 16-41-17-2(a)(10).

(2) Any fee assessed against the hospital for a laboratory's testing of the specimen under IC 16-41-17-2(a)(10).

(3) Any newborn screening fee or other fee assessed against the hospital by the state department of health in connection with the testing of the specimen under IC 16-41-17-2(a)(10).

As added by P.L.149-2001, SEC.2.

IC 12-15-15-8
Repealed
(Repealed by P.L.126-1998, SEC.21.)

IC 12-15-15-9
Attribution of payable claim to county; amount of payment on payable claims; conditions on payments; funds available for payments

Sec. 9. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and:

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

This section does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10.

(b) For each state fiscal year ending after June 30, 2003, and before July 1, 2007, a hospital licensed under IC 16-21-2 that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5 is entitled to a payment under subsection (c).

(c) Except as provided in section 9.8 of this chapter and subject to section 9.6 of this chapter, for a state fiscal year, the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP SIX of the following STEPS:

STEP ONE: Identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 during the state fiscal year; and

(B) the county to which each payable claim is attributed.

STEP TWO: For each county identified in STEP ONE, identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 attributed to the county during the state fiscal year; and

(B) the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP THREE: For each county identified in STEP ONE, identify the amount of county funds transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5.

STEP FOUR: For each hospital identified in STEP ONE, with

respect to each county identified in STEP ONE, calculate the hospital's percentage share of the county's funds transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5. Each hospital's percentage share is based on the total amount of the hospital's payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year, calculated as a percentage of the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP FIVE: Subject to subsection (j), for each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, multiply the hospital's percentage share calculated under STEP FOUR by the amount of the county's funds transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5.

STEP SIX: Determine the sum of all amounts calculated under STEP FIVE for each hospital identified in STEP ONE with respect to each county identified in STEP ONE.

(d) For state fiscal years beginning after June 30, 2007, a hospital that received a payment determined under STEP SIX of subsection (c) for the state fiscal year ending June 30, 2007, shall be paid in an amount equal to the amount determined for the hospital under STEP SIX of subsection (c) for the state fiscal year ending June 30, 2007.

(e) A hospital's payment under subsection (c) or (d) is in the form of a Medicaid supplemental payment. The amount of a hospital's Medicaid supplemental payment is subject to the availability of funding for the non-federal share of the payment under subsection (f). The office shall make the payments under subsection (c) and (d) before December 15 that next succeeds the end of the state fiscal year.

(f) The non-federal share of a payment to a hospital under subsection (c) or (d) is funded from the funds transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5.

(g) The amount of a county's transferred funds available to be used to fund the non-federal share of a payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds of the county transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5 that the total amount of the hospital's payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year bears to the total amount of all hospital payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year.

(h) Any county's funds identified in subsection (g) that remain after the non-federal share of a hospital's payment has been funded are available to serve as the non-federal share of a payment to a hospital under section 9.5 of this chapter.

(i) For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).

(j) For purposes of subsection (c):

(1) the amount of a payable claim is an amount equal to the

amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(2) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

(k) The amount calculated under STEP FIVE of subsection (c) for a hospital with respect to a county may not exceed the total amount of the hospital's payable claims attributed to the county during the state fiscal year.

As added by P.L.126-1998, SEC.5. Amended by P.L.113-2000, SEC.3; P.L.283-2001, SEC.20; P.L.1-2002, SEC.52; P.L.120-2002, SEC.15; P.L.1-2003, SEC.57; P.L.255-2003, SEC.19; P.L.78-2004, SEC.5; P.L.212-2007, SEC.4; P.L.218-2007, SEC.14; P.L.229-2011, SEC.132; P.L.205-2013, SEC.194.

IC 12-15-15-9.5

Attribution of payable claim to county; funds available for payments; limitation on payments

Sec. 9.5. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and:

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

This section does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10.

(b) For each state fiscal year ending after June 30, 2003, but before July 1, 2007, a hospital licensed under IC 16-21-2:

(1) that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5; and

(2) whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year;

is entitled to a payment under subsection (c).

(c) Subject to section 9.6 of this chapter, for a state fiscal year, the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division

and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP EIGHT of the following STEPS:

STEP ONE: Identify each county whose transfer of funds to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5 for the state fiscal year was less than the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP TWO: For each county identified in STEP ONE, calculate the difference between the amount of funds of the county transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5 and the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP THREE: Calculate the sum of the amounts calculated for the counties under STEP TWO.

STEP FOUR: Identify each hospital whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP FIVE: Calculate for each hospital identified in STEP FOUR the difference between the hospital's payment under section 9(c) of this chapter and the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP SIX: Calculate the sum of the amounts calculated for each of the hospitals under STEP FIVE.

STEP SEVEN: For each hospital identified in STEP FOUR, calculate the hospital's percentage share of the amount calculated under STEP SIX. Each hospital's percentage share is based on the amount calculated for the hospital under STEP FIVE calculated as a percentage of the sum calculated under STEP SIX.

STEP EIGHT: For each hospital identified in STEP FOUR, multiply the hospital's percentage share calculated under STEP SEVEN by the sum calculated under STEP THREE. The amount calculated under this STEP for a hospital may not exceed the amount by which the hospital's total payable claims under IC 12-16-7.5 submitted during the state fiscal year exceeded the amount of the hospital's payment under section 9(c) of this chapter.

(d) For state fiscal years beginning after June 30, 2007, a hospital that received a payment determined under STEP EIGHT of subsection (c) for the state fiscal year ending June 30, 2007, shall be paid an amount equal to the amount determined for the hospital under STEP EIGHT of subsection (c) for the state fiscal year ending June 30, 2007.

(e) A hospital's payment under subsection (c) or (d) is in the form of a Medicaid supplemental payment. The amount of the hospital's add-on payment is subject to the availability of funding for the

nonfederal share of the payment under subsection (f). The office shall make the payments under subsection (c) or (d) before December 15 that next succeeds the end of the state fiscal year.

(f) The nonfederal share of a payment to a hospital under subsection (c) or (d) is derived from funds transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5 and not expended under section 9 of this chapter.

(g) Except as provided in subsection (h), the office may not make a payment under this section until the payments due under section 9 of this chapter for the state fiscal year have been made.

(h) If a hospital appeals a decision by the office regarding the hospital's payment under section 9 of this chapter, the office may make payments under this section before all payments due under section 9 of this chapter are made if:

(1) a delay in one (1) or more payments under section 9 of this chapter resulted from the appeal; and

(2) the office determines that making payments under this section while the appeal is pending will not unreasonably affect the interests of hospitals eligible for a payment under this section.

(i) Any funds transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5 remaining after payments are made under this section shall be used as provided in IC 12-15-20-2(8).

(j) For purposes of subsection (c):

(1) "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b);

(2) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(3) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

As added by P.L.255-2003, SEC.20. Amended by P.L.78-2004, SEC.6; P.L.212-2007, SEC.5; P.L.218-2007, SEC.15; P.L.3-2008, SEC.93; P.L.229-2011, SEC.133; P.L.205-2013, SEC.195.

IC 12-15-15-9.6

Limitation on total amount of payments

Sec. 9.6. For state fiscal years beginning after June 30, 2007, the total amount of payments to hospitals under sections 9 and 9.5 of this chapter may not exceed the amount paid to hospitals under sections 9 and 9.5 of this chapter for the state fiscal year ending June 30, 2007.

As added by P.L.255-2003, SEC.21. Amended by P.L.212-2007, SEC.6; P.L.218-2007, SEC.16.

IC 12-15-15-9.8
Repealed

(Repealed by P.L.212-2007, SEC.31; P.L.218-2007, SEC.52.)

IC 12-15-15-10
Payments to providers under Medicaid disproportionate share provider program

Sec. 10. (a) This section applies to a hospital that:

(1) is licensed under IC 16-21; and

(2) qualifies as a provider under IC 12-15-16, IC 12-15-17, or IC 12-15-19 of the Medicaid disproportionate share provider program.

(b) The office may, after consulting with affected providers, do one (1) or more of the following:

(1) Establish a nominal charge hospital payment program.

(2) Establish any other permissible payment program.

(c) A program expanded or established under this section is subject to the availability of:

(1) intergovernmental transfers;

(2) funds certified as being eligible for federal financial participation; or

(3) other permissible sources of non-federal share dollars.

(d) The office may not implement a program under this section until the federal Centers for Medicare and Medicaid Services approves the provisions regarding the program in the amended state plan for medical assistance.

(e) The office may determine not to continue to implement a program established under this section if federal financial participation is not available.

As added by P.L.113-2000, SEC.4. Amended by P.L.66-2002, SEC.6; P.L.212-2007, SEC.7; P.L.218-2007, SEC.17.

IC 12-15-15-11
Nominal charge hospitals

Sec. 11. Hospitals licensed under IC 16-21 that are established and operated under IC 16-22, IC 16-22-8, or IC 16-23 are nominal charge hospitals for purposes of the Medicaid program.

As added by P.L.283-2001, SEC.21.

IC 12-15-16

Chapter 16. Disproportionate Share Providers; Eligibility

IC 12-15-16-1

Disproportionate share provider status

Sec. 1. (a) A provider that is an acute care hospital licensed under IC 16-21, a state mental health institution under IC 12-24-1-3, or a private psychiatric institution licensed under IC 12-25 is a disproportionate share provider if the provider meets either of the following conditions:

(1) The provider's Medicaid inpatient utilization rate is at least one (1) standard deviation above the mean Medicaid inpatient utilization rate for providers receiving Medicaid payments in Indiana. However, the Medicaid inpatient utilization rate of providers whose low income utilization rate exceeds twenty-five percent (25%) must be excluded in calculating the statewide mean Medicaid inpatient utilization rate.

(2) The provider's low income utilization rate exceeds twenty-five percent (25%).

(b) An acute care hospital licensed under 16-21 is a municipal disproportionate share provider if the hospital:

(1) has a Medicaid utilization rate greater than one percent (1%); and

(2) is established and operated under IC 16-22-2 or IC 16-23.

(c) A community mental health center:

(1) that is identified in IC 12-29-2-1;

(2) for which a county provides funds under:

(A) IC 12-29-1-7(b) before January 1, 2004; or

(B) IC 12-29-2-20(d) after December 31, 2003;

or from other county sources; and

(3) that provides inpatient services to Medicaid patients;

is a community mental health center disproportionate share provider if the community mental health center's Medicaid inpatient utilization rate is greater than one percent (1%).

(d) A disproportionate share provider under IC 12-15-17 must have at least two (2) obstetricians who have staff privileges and who have agreed to provide obstetric services under the Medicaid program. For a hospital located in a rural area (as defined in Section 1886 of the Social Security Act), an obstetrician includes a physician with staff privileges at the hospital who has agreed to perform nonemergency obstetric procedures. However, this obstetric service requirement does not apply to a provider whose inpatients are predominantly individuals less than eighteen (18) years of age or that did not offer nonemergency obstetric services as of December 21, 1987.

(e) The determination of a provider's status as a disproportionate share provider under this section shall be based on utilization and revenue data from the most recent year for which an audited cost report from the provider is on file with the office.

As added by P.L.2-1992, SEC.9. Amended by P.L.27-1992, SEC.12;

P.L.277-1993(ss), SEC.71; P.L.126-1998, SEC.6; P.L.113-2000, SEC.5; P.L.78-2004, SEC.8; P.L.123-2008, SEC.1.

IC 12-15-16-2
Inpatient utilization rate

Sec. 2. (a) For purposes of disproportionate share eligibility, a provider's Medicaid inpatient utilization rate is a fraction (expressed as a percentage) where:

(1) the numerator is the provider's total number of Medicaid inpatient days in the most recent year for which an audited cost report is on file with the office; and

(2) the denominator is the total number of the provider's inpatient days in the most recent year for which an audited cost report is on file with the office.

(b) For purposes of this section, "Medicaid inpatient days" includes all acute care days attributable to individuals eligible for Medicaid benefits under a state plan approved under 42 U.S.C. 1396a on the days of service:

(1) whether attributable to individuals eligible for Medicaid in Indiana or any other state;

(2) even if the office did not make payment for any services, including inpatient days that are determined to be medically necessary but for which payment is denied by the office for other reasons; and

(3) including days attributable to Medicaid beneficiaries receiving services through a managed care organization or health maintenance organization.

As added by P.L.2-1992, SEC.9. Amended by P.L.277-1993(ss), SEC.72; P.L.156-1995, SEC.2; P.L.126-1998, SEC.7; P.L.113-2000, SEC.6; P.L.283-2001, SEC.22; P.L.153-2011, SEC.18.

IC 12-15-16-3
Low income utilization rate; contractual allowances and discounts

Sec. 3. (a) For purposes of disproportionate share eligibility, a provider's low income utilization rate is the sum of the following, based on the most recent year for which an audited cost report is on file with the office:

(1) A fraction (expressed as a percentage) for which:

(A) the numerator is the sum of:

(i) the total Medicaid patient revenues paid to the provider; plus

(ii) the amount of the cash subsidies received directly from state and local governments, including payments made under the hospital care for the indigent program (IC 12-16-2) (before its repeal) and IC 12-16-2.5; and

(B) the denominator is the total amount of the provider's patient revenues paid to the provider, including cash subsidies; and

(2) A fraction (expressed as a percentage) for which:

(A) the numerator is the total amount of the provider's

charges for inpatient services that are attributable to care provided to individuals who have no source of payment; and (B) the denominator is the total amount of charges for inpatient services.

(b) The numerator in subsection (a)(1)(A) does not include contractual allowances and discounts other than for indigent patients not eligible for Medicaid.

As added by P.L.2-1992, SEC.9. Amended by P.L.277-1993(ss), SEC.73; P.L.113-2000, SEC.7; P.L.283-2001, SEC.23; P.L.120-2002, SEC.16.

IC 12-15-16-4
Repealed

(Repealed by P.L.156-1995, SEC.9.)

IC 12-15-16-5
Implementation; federal Health Care Financing Administration approval; percentage reduction of payments to Medicaid indigent care trust fund

Sec. 5. (a) The office may not implement this chapter, IC 12-15-17, IC 12-15-18, IC 12-15-19, or IC 12-15-20 until the federal Centers for Medicare and Medicaid Services has issued its approval of the amended state plan for medical assistance.

(b) The office may determine not to continue to implement this chapter, IC 12-15-17, IC 12-15-18, IC 12-15-19, and IC 12-15-20 if federal financial participation is not available.

(c) If federal financial participation is approved for less than all of the amounts paid into the Medicaid indigent care trust fund with respect to a fiscal year, the office may reduce payments attributable to that fiscal year under IC 12-15-19-1 by a percentage sufficient to compensate for the aggregate reduction in federal financial participation. If additional federal financial participation is subsequently approved with respect to payments into the Medicaid indigent care trust fund for the same fiscal year, the office shall distribute such amounts using the percentage that was used to compensate for the prior reduction in federal financial participation.

As added by P.L.2-1992, SEC.9. Amended by P.L.277-1993(ss), SEC.74; P.L.156-1995, SEC.3; P.L.126-1998, SEC.8; P.L.66-2002, SEC.7.

IC 12-15-16-6
Basic disproportionate payments to hospitals; amount

Sec. 6. (a) As used in this section, "low income utilization rate" refers to the low income utilization rate described in section 3 of this chapter.

(b) Hospitals that qualify for basic disproportionate share under section 1(a) of this chapter shall receive disproportionate share payments as follows:

(1) For the state fiscal year ending June 30, 1999, a pool not exceeding twenty-one million dollars ($21,000,000) shall be

distributed to all hospitals licensed under IC 16-21 that qualify under section 1(a)(1) of this chapter. The funds in the pool must be distributed to qualifying hospitals in proportion to each hospital's Medicaid day utilization rate and Medicaid discharges, as determined based on data from the most recent audited cost report on file with the office. Any funds remaining in the pool referred to in this subdivision following distribution to all qualifying hospitals shall be transferred to the pool distributed under subdivision (3).

(2) Hospitals licensed under IC 16-21 that qualify under both section 1(a)(1) and 1(a)(2) of this chapter shall receive a disproportionate share payment in accordance with subdivision (1).

(3) For the state fiscal year ending June 30, 1999, a pool not exceeding five million dollars ($5,000,000), subject to adjustment by the transfer of any funds remaining in the pool referred to in subdivision (1), following distribution to all qualifying hospitals, shall be distributed to all hospitals licensed under IC 16-21 that:

(A) qualify under section 1(a)(1) or 1(a)(2) of this chapter; and

(B) have at least twenty-five thousand (25,000) Medicaid inpatient days per year, based on data from each hospital's Medicaid cost report for the fiscal year ended during state fiscal year 1996.

The funds in the pool must be distributed to qualifying hospitals in proportion to each hospital's Medicaid day utilization rate and total Medicaid patient days, as determined based on data from the most recent audited cost report on file with the office. Payments under this subdivision are in place of the payments made under subdivisions (1) and (2).

(c) This subsection does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10. Other institutions that qualify as disproportionate share providers under section 1 of this chapter, in each state fiscal year, shall receive disproportionate share payments as follows:

(1) For each of the state fiscal years ending after June 30, 1995, a pool not exceeding two million dollars ($2,000,000) shall be distributed to all private psychiatric institutions licensed under IC 12-25 that qualify under section 1(a)(1) or 1(a)(2) of this chapter. The funds in the pool must be distributed to the qualifying institutions in proportion to each institution's Medicaid day utilization rate as determined based on data from the most recent audited cost report on file with the office.

(2) A pool not exceeding one hundred ninety-one million dollars ($191,000,000) for all state fiscal years ending after June 30, 1995, shall be distributed to all state mental health institutions under IC 12-24-1-3 that qualify under either section 1(a)(1) or 1(a)(2) of this chapter. The funds in the pool must be distributed to each qualifying institution in proportion to each institution's

low income utilization rate, as determined based on the most recent data on file with the office.

(d) This subsection does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10. Disproportionate share payments described in this section shall be made on an interim basis throughout the year, as provided by the office.

As added by P.L.277-1993(ss), SEC.75. Amended by P.L.156-1995, SEC.4; P.L.24-1997, SEC.49; P.L.126-1998, SEC.9; P.L.113-2000, SEC.8; P.L.229-2011, SEC.134; P.L.205-2013, SEC.196.

IC 12-15-16-7

Disproportionate share payments if hospital assessment fees are used as state share dollars; eligible providers; state plan amendments

Sec. 7. (a) This section applies to Medicaid disproportionate share payments for the state fiscal year beginning:

(1) July 1, 2012, if hospital fees authorized under P.L.229-2011, SECTION 281 or authorized to be transferred and used for payments are used as state share dollars for the payments; and

(2) July 1, 2013, and for each state fiscal year after, for which hospital fees authorized under IC 16-21-10 are used as state share dollars for the payments.

(b) As used in this section, "hospital assessment fee committee" refers to the committee established by IC 16-21-10-7.

(c) As used in this section, "hospital specific limit" refers to the hospital specific limit provided under 42 U.S.C. 1396r-4(g).

(d) As used in this section, "municipal hospital payment amount" means, concerning a hospital established and operated under IC 16-22-2 or IC 16-23, an amount equal to the lesser of:

(1) the hospital specific limit for the hospital for the state fiscal year; or

(2) the hospital's net 2009 supplemental payment amount.

(e) As used in this section, "nongovernmental hospital" refers to a hospital that is licensed under IC 16-21-2, that is not a unit of state or local government, and is not owned or operated by a unit of state or local government.

(f) As used in this section, "SECTION 281 hospital assessment fee committee" refers to the hospital assessment fee committee established by P.L.229-2011, SECTION 281, subsection (e).

(g) The following providers are eligible for Medicaid disproportionate share payments under this section:

(1) A hospital or psychiatric institution described in Attachment 4.19-A, Section III, page 6.1(a) of the Medicaid state plan in effect July 1, 2011.

(2) A hospital that satisfies the following for the state fiscal year for which Medicaid disproportionate share payments are made under this section:

(A) A nongovernmental hospital that:

(i) has a Medicaid inpatient utilization rate for the state

fiscal year that is at least equal to the mean Medicaid inpatient utilization rate as calculated for purposes of determining Medicaid disproportionate share eligibility, but does not equal or exceed one (1) standard deviation above the mean Medicaid inpatient utilization rate; and

(ii) satisfies the obstetric service provisions of 42 U.S.C. 1396r-4(d).

(B) A hospital established and operated under IC 16-22-2 or IC 16-23 that:

(i) has a Medicaid inpatient utilization rate for the state fiscal year greater than one percent (1%); and

(ii) satisfies the obstetric service provisions of 42 U.S.C. 1396r-4(d).

(3) A nongovernmental hospital that satisfies the following for the state fiscal year for which Medicaid disproportionate share payments are made under this section:

(A) The hospital has a Medicaid inpatient utilization rate for the state fiscal year that is less than the mean Medicaid inpatient utilization rate, as calculated for purposes of determining Medicaid disproportionate share eligibility, but is at least greater than one percent (1%).

(B) The hospital satisfies the obstetric service provisions of 42 U.S.C. 1396r-4(d).

(h) This subsection applies to a payment of Medicaid disproportionate share payments, if any, to hospitals described in subsection (g)(2) and (g)(3). For Medicaid disproportionate share payments for the state fiscal year beginning July 1, 2012, the office, subject to approval by the SECTION 281 hospital assessment fee committee, may develop and implement a Medicaid state plan amendment that provides Medicaid disproportionate share payments for the hospitals described in:

(1) subsection (g)(2), as long as each hospital and psychiatric institution described in subsection (g)(1) has received a Medicaid disproportionate share payment for the state fiscal year in an amount equal to either:

(A) the hospital specific limit; or

(B) the municipal hospital payment amount;

for the hospital or psychiatric institution for the state fiscal year; and

(2) subsection (g)(3), as long as each hospital described in subsection (g)(2) has received a Medicaid disproportionate share payment for the state fiscal year in an amount equal to the hospital specific limit for the hospital for the state fiscal year.

(i) This subsection applies to a payment of Medicaid disproportionate share payments, if any, to hospitals described in subsection (g)(2) and (g)(3). For Medicaid disproportionate share payments for the state fiscal year beginning July 1, 2013, and each state fiscal year thereafter under this section, the office, subject to the approval by the hospital assessment fee committee, may develop and implement a Medicaid state plan amendment that:

(1) renews, for state fiscal year beginning July 1, 2013, and each state fiscal year thereafter under this section, the Medicaid disproportionate share provisions of Attachment 4.19-A, Section III, page 6.1(a) of the Medicaid state plan in effect on July 1, 2011;

(2) provides Medicaid disproportionate share payments for the hospitals described in subsection (g)(2), as long as each hospital and psychiatric institution described in subsection (g)(1) has received a Medicaid disproportionate share payment for the state fiscal year in an amount equal to the:

(A) hospital specific limit; or

(B) municipal hospital payment amount;

for the hospital or psychiatric institution for the state fiscal year; and

(3) provides Medicaid disproportionate share payments for the hospitals described in subsection (g)(3), as long as each hospital described in subsection (g)(2) has received a Medicaid disproportionate share payment for the state fiscal year in an amount equal to the hospital specific limit of the hospital for the state fiscal year.

(j) This subsection does not apply to Medicaid disproportionate share payments made to hospitals described in subsection (g)(2)(B) under Attachment 4.19-A, Section III, page 6.1(a) of the Medicaid state plan in effect on July 1, 2011, or any renewal. Nothing in this section:

(1) requires that the hospitals described in subsection (g)(2) or (g)(3) receive Medicaid disproportionate share payments for a state fiscal year;

(2) requires that the hospitals described in subsection (g)(2) or (g)(3) receive Medicaid disproportionate share payments for a state fiscal year in an amount equal to the respective hospital specific limits for the state fiscal year; or

(3) prescribes how Medicaid disproportionate share payments are to be distributed among the hospitals described in:

(A) subsection (g)(2); or

(B) subsection (g)(3).

(k) Nothing in this section prohibits the use of unexpended federal Medicaid disproportionate share allotments for a state fiscal year under a program authorized by the SECTION 281 hospital assessment fee committee or the hospital assessment fee committee, as long as each hospital listed in subsection (g)(1), (g)(2), and (g)(3) has received Medicaid disproportionate share payments for the state fiscal year equal to the hospital specific limit for the hospital for the state fiscal year.

As added by P.L.205-2013, SEC.197. Amended by P.L.2-2014, SEC.64.

IC 12-15-17

Chapter 17. Disproportionate Share Providers; Disproportionate Share Payments

IC 12-15-17-1

Providers servicing disproportionate share of Medicaid recipients and low income patients; basic rate; minimum Medicaid inpatient utilization rate required

Sec. 1. A disproportionate share payment shall be made to:

(1) a hospital licensed under IC 16-21;

(2) a state mental health institution under IC 12-24-1-3; and

(3) a private psychiatric institution licensed under IC 12-25;

that serves a disproportionate share of Medicaid recipients and other low income patients as determined under IC 12-15-16-1. However, a provider may not be defined as a disproportionate share provider under IC 12-15-16-1 unless the provider has a Medicaid inpatient utilization rate (as defined in 42 U.S.C. 1396r-4(b)(2)) of at least one percent (1%). Subdivisions (2) and (3) do not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10.

As added by P.L.2-1992, SEC.9. Amended by P.L.27-1992, SEC.13; P.L.2-1993, SEC.97; P.L.277-1993(ss), SEC.76; P.L.1-1994, SEC.60; P.L.156-1995, SEC.5; P.L.113-2000, SEC.9; P.L.229-2011, SEC.135; P.L.205-2013, SEC.198.

IC 12-15-17-2

Repealed

(Repealed by P.L.277-1993(ss), SEC.83.)

IC 12-15-17-3

Repealed

(Repealed by P.L.27-1992, SEC.30.)

IC 12-15-18

Chapter 18. Disproportionate Share Providers; Assessments

IC 12-15-18-1

Repealed

(Repealed by P.L.27-1992, SEC.30.)

IC 12-15-18-2

"Hospital" defined

Sec. 2. (a) As used in this chapter, "hospital" has the meaning set forth in IC 16-18-2-179(b).

(b) The term does not include a state institution or a private psychiatric institution.

As added by P.L.2-1992, SEC.9. Amended by P.L.2-1993, SEC.98.

IC 12-15-18-3

"Private psychiatric institution" defined

Sec. 3. As used in this chapter, "private psychiatric institution" means an acute care inpatient facility licensed under IC 12-25, for the treatment of individuals with mental illness.

As added by P.L.2-1992, SEC.9.

IC 12-15-18-3.5

"Trustees" defined

Sec. 3.5. As used in this chapter, "trustees" refers to the trustees of Indiana University.

As added by P.L.27-1992, SEC.15.

IC 12-15-18-4

Repealed

(Repealed by P.L.156-1995, SEC.9.)

IC 12-15-18-5

Repealed

(Repealed by P.L.126-1998, SEC.21.)

IC 12-15-18-5.1

Intergovernmental transfers for state fiscal years ending on or after June 30, 1998; coordination of transfers; transfers by municipal disproportionate share providers; certification by county

Sec. 5.1. (a) For state fiscal years ending on or after June 30, 1998, the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 are authorized to make intergovernmental transfers to the Medicaid indigent care trust fund in amounts to be determined jointly by the office and the trustees, and the office and each municipal health and hospital corporation.

(b) The treasurer of state shall annually transfer from appropriations made for the division of mental health and addiction sufficient money to provide the state's share of payments under IC 12-15-16-6(c)(2).

(c) The office shall coordinate the transfers from the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 so that the aggregate intergovernmental transfers, when combined with federal matching funds:

(1) produce payments to each hospital licensed under IC 16-21 that qualifies as a disproportionate share provider under IC 12-15-16-1(a); and

(2) both individually and in the aggregate do not exceed limits prescribed by the federal Centers for Medicare and Medicaid Services.

The trustees and a municipal health and hospital corporation are not required to make intergovernmental transfers under this section. The trustees and a municipal health and hospital corporation may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

(d) A municipal disproportionate share provider (as defined in IC 12-15-16-1) shall transfer to the Medicaid indigent care trust fund an amount determined jointly by the office and the municipal disproportionate share provider. A municipal disproportionate share provider is not required to make intergovernmental transfers under this section. A municipal disproportionate share provider may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

(e) A county making a payment under:

(1) IC 12-29-1-7(b) before January 1, 2004; or

(2) IC 12-29-2-20(d) after December 31, 2003;

or from other county sources to a community mental health center qualifying as a community mental health center disproportionate share provider shall certify that the payment represents expenditures that are eligible for federal financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

As added by P.L.126-1998, SEC.10. Amended by P.L.113-2000, SEC.10; P.L.215-2001, SEC.44; P.L.66-2002, SEC.8; P.L.78-2004, SEC.9; P.L.123-2008, SEC.2.

IC 12-15-18-6
Repealed

(Repealed by P.L.27-1992, SEC.30.)

IC 12-15-19

Chapter 19. Disproportionate Share Providers; Enhanced Disproportionate Share Payments

IC 12-15-19-1

Enhanced disproportionate share payment methodology for state fiscal years ending June 30, 1998, and June 30, 1999; limits on basic and enhanced disproportionate share payments to hospitals

Sec. 1. (a) For the state fiscal years ending on June 30, 1998, and June 30, 1999, the office shall develop an enhanced disproportionate share payment methodology that ensures that each enhanced disproportionate share provider receives total disproportionate share payments that do not exceed its hospital specific limit specified in subsection (c). The methodology developed by the office shall ensure that hospitals operated by or affiliated with the governmental entities described in IC 12-15-18-5.1(a) receive, to the extent practicable, disproportionate share payments equal to their hospital specific limits. The funds shall be distributed to qualifying hospitals in proportion to each qualifying hospital's percentage of the total net hospital specific limits of all qualifying hospitals. A hospital's net hospital specific limit for state fiscal years ending on or before June 30, 1999, is determined under STEP THREE of the following formula:

STEP ONE: Determine the hospital's hospital specific limit under subsection (c).

STEP TWO: Subtract basic disproportionate share payments received by the hospital under IC 12-15-16-6 from the amount determined under STEP ONE.

STEP THREE: Subtract intergovernmental transfers paid by or on behalf of the hospital from the amount determined under STEP TWO.

(b) The office shall include a provision in each amendment to the state plan regarding disproportionate share payments, municipal disproportionate share payments, and community mental health center disproportionate share payments that the office submits to the federal Centers for Medicare and Medicaid Services that, as provided in 42 CFR 447.297(d)(3), allows the state to make additional disproportionate share expenditures, municipal disproportionate share expenditures, and community mental health center disproportionate share expenditures after the end of each federal fiscal year that relate back to a prior federal fiscal year. Each eligible hospital or community mental health center may receive an additional disproportionate share adjustment if:

(1) additional intergovernmental transfers or certifications are made as authorized under IC 12-15-18-5.1; and

(2) the total disproportionate share payments to:

(A) each individual hospital; and

(B) all qualifying hospitals in the aggregate;

do not exceed the limits provided by federal law and regulation.

(c) For state fiscal years ending on or before June 30, 1999, total

basic and enhanced disproportionate share payments to a hospital under this chapter and IC 12-15-16 shall not exceed the hospital specific limit provided under 42 U.S.C. 1396r-4(g). The hospital specific limit for state fiscal years ending on or before June 30, 1999, shall be determined by the office taking into account any data provided by each hospital for each hospital's most recent fiscal year (or in cases where a change in fiscal year causes the most recent fiscal period to be less than twelve (12) months, twelve (12) months of data ending at the end of the most recent fiscal year) as certified to the office by:

(1) an independent certified public accounting firm if the hospital is a hospital licensed under IC 16-21 that qualifies under IC 12-15-16-1(a); or

(2) the budget agency if the hospital is a state mental health institution listed under IC 12-24-1-3 that qualifies under either IC 12-15-16-1(a)(1) or IC 12-15-16-1(a)(2);

in accordance with this subsection and federal laws, regulations, and guidelines. The hospital specific limit for state fiscal years ending after June 30, 1999, shall be determined by the office using the methodology described in section 2.1(b) of this chapter.

As added by P.L.2-1992, SEC.9. Amended by P.L.27-1992, SEC.18; P.L.2-1993, SEC.101; P.L.277-1993(ss), SEC.79; P.L.1-1994, SEC.63; P.L.156-1995, SEC.7; P.L.115-1996, SEC.2; P.L.24-1997, SEC.52; P.L.126-1998, SEC.11; P.L.113-2000, SEC.11; P.L.66-2002, SEC.9.

IC 12-15-19-2
Repealed

(Repealed by P.L.126-1998, SEC.21.)

IC 12-15-19-2.1
Disproportionate share payment methodology for state fiscal years ending on or after June 30, 2000; limits on total disproportionate share payments to hospitals

Sec. 2.1. (a) This section does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10. For each state fiscal year ending on or after June 30, 2000, the office shall develop a disproportionate share payment methodology that ensures that each hospital qualifying for disproportionate share payments under IC 12-15-16-1(a) timely receives total disproportionate share payments that do not exceed the hospital's hospital specific limit provided under 42 U.S.C. 1396r-4(g). The payment methodology as developed by the office must:

(1) maximize disproportionate share hospital payments to qualifying hospitals to the extent practicable;

(2) take into account the situation of those qualifying hospitals that have historically qualified for Medicaid disproportionate share payments; and

(3) ensure that payments for qualifying hospitals are equitable.

(b) Total disproportionate share payments to a hospital under this

chapter shall not exceed the hospital specific limit provided under 42 U.S.C. 1396r-4(g). The hospital specific limit for a state fiscal year shall be determined by the office taking into account data provided by each hospital that is considered reliable by the office based on a system of periodic audits, the use of trending factors, and an appropriate base year determined by the office. The office may require independent certification of data provided by a hospital to determine the hospital's hospital specific limit.

(c) The office shall include a provision in each amendment to the state plan regarding Medicaid disproportionate share payments that the office submits to the federal Centers for Medicare and Medicaid Services that, as provided in 42 CFR 447.297(d)(3), allows the state to make additional disproportionate share expenditures after the end of each federal fiscal year that relate back to a prior federal fiscal year. However, the total disproportionate share payments to:

(1) each individual hospital; and

(2) all qualifying hospitals in the aggregate;

may not exceed the limits provided by federal law and regulation.

As added by P.L.113-2000, SEC.12. Amended by P.L.283-2001, SEC.24; P.L.66-2002, SEC.10; P.L.212-2007, SEC.8; P.L.218-2007, SEC.18; P.L.229-2011, SEC.136; P.L.205-2013, SEC.199.

IC 12-15-19-3
Repealed

(Repealed by P.L.27-1992, SEC.30.)

IC 12-15-19-4
Repealed

(Repealed by P.L.156-1995, SEC.9.)

IC 12-15-19-5
Federal financial participation unavailable; withholding disproportionate share payment adjustments

Sec. 5. Except as provided in section 6 of this chapter, disproportionate share payment adjustments under this chapter may not be withheld by the office unless federal financial participation becomes unavailable to match state money for the purpose of providing disproportionate share payment adjustments.

As added by P.L.2-1992, SEC.9. Amended by P.L.27-1992, SEC.21; P.L.113-2000, SEC.13.

IC 12-15-19-6
Deposits in fund; insufficiency; suspension or reduction of payments to eligible institutions

Sec. 6. (a) This section does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10. The office is not required to make disproportionate share payments under this chapter from the Medicaid indigent care trust fund established by IC 12-15-20-1 until the fund has received sufficient deposits, including intergovernmental transfers of funds and certifications of

expenditures, to permit the office to make the state's share of the required disproportionate share payments.

(b) For state fiscal years beginning after June 30, 2006, if:

(1) sufficient deposits have not been received; or

(2) the statewide Medicaid disproportionate share allocation is insufficient to provide federal financial participation for the entirety of all eligible disproportionate share hospitals' hospital-specific limits;

the office shall reduce disproportionate share payments made under IC 12-15-19-2.1 and Medicaid safety-net payments made in accordance with the Medicaid state plan to eligible institutions using an equitable methodology consistent with subsection (c).

(c) For state fiscal years beginning after June 30, 2006, payments reduced under this section shall, in accordance with the Medicaid state plan, be made:

(1) to best utilize federal matching funds available for hospitals eligible for Medicaid disproportionate share payments under IC 12-15-19-2.1; and

(2) by utilizing a methodology that allocates available funding under this subdivision, and Medicaid supplemental payments as defined in IC 12-15-15-1.5, in a manner that all hospitals eligible for Medicaid disproportionate share payments under IC 12-15-19-2.1 receive payments using a methodology that:

(A) takes into account the situation of the eligible hospitals that have historically qualified for Medicaid disproportionate share payments; and

(B) ensures that payments for eligible hospitals are equitable.

(d) The percentage reduction shall be sufficient to ensure that payments do not exceed the statewide Medicaid disproportionate share allocation or the amounts that can be financed with:

(1) the amount transferred from the hospital care for the indigent trust fund;

(2) other intergovernmental transfers;

(3) certifications of public expenditures; or

(4) any other permissible sources of non-federal match.

As added by P.L.2-1992, SEC.9. Amended by P.L.27-1992, SEC.22; P.L.113-2000, SEC.14; P.L.212-2007, SEC.9; P.L.218-2007, SEC.19; P.L.229-2011, SEC.137; P.L.205-2013, SEC.200.

IC 12-15-19-7

Repealed

(Repealed by P.L.27-1992, SEC.30.)

IC 12-15-19-8

Disproportionate share adjustments received by municipal disproportionate share providers; limits on total disproportionate share payments

Sec. 8. (a) This section does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10. A provider that qualifies as a municipal disproportionate share provider

under IC 12-15-16-1 shall receive a disproportionate share adjustment, subject to the provider's hospital specific limits described in subsection (b), as follows:

(1) For each state fiscal year ending on or after June 30, 1998, an amount shall be distributed to each provider qualifying as a municipal disproportionate share provider under IC 12-15-16-1. The total amount distributed shall not exceed the sum of all hospital specific limits for all qualifying providers.

(2) For each municipal disproportionate share provider qualifying under IC 12-15-16-1 to receive disproportionate share payments, the amount in subdivision (1) shall be reduced by the amount of disproportionate share payments received by the provider under IC 12-15-16-6 or sections 1 or 2.1 of this chapter. The office shall develop a disproportionate share provider payment methodology that ensures that each municipal disproportionate share provider receives disproportionate share payments that do not exceed the provider's hospital specific limit specified in subsection (b). The methodology developed by the office shall ensure that a municipal disproportionate share provider receives, to the extent possible, disproportionate share payments that, when combined with any other disproportionate share payments owed to the provider, equals the provider's hospital specific limits.

(b) Total disproportionate share payments to a provider under this chapter and IC 12-15-16 shall not exceed the hospital specific limit provided under 42 U.S.C. 1396r-4(g). The hospital specific limit for state fiscal years ending on or before June 30, 1999, shall be determined by the office taking into account data provided by each hospital for the hospital's most recent fiscal year or, if a change in fiscal year causes the most recent fiscal period to be less than twelve (12) months, twelve (12) months of data compiled to the end of the provider's fiscal year that ends within the most recent state fiscal year, as certified to the office by an independent certified public accounting firm. The hospital specific limit for all state fiscal years ending on or after June 30, 2000, shall be determined by the office taking into account data provided by each hospital that is deemed reliable by the office based on a system of periodic audits, the use of trending factors, and an appropriate base year determined by the office. The office may require independent certification of data provided by a hospital to determine the hospital's hospital specific limit.

(c) For each of the state fiscal years:

(1) beginning July 1, 1998, and ending June 30, 1999; and

(2) beginning July 1, 1999, and ending June 30, 2000;

the total municipal disproportionate share payments available under this section to qualifying municipal disproportionate share providers is twenty-two million dollars ($22,000,000).

As added by P.L.126-1998, SEC.12. Amended by P.L.113-2000, SEC.15; P.L.229-2011, SEC.138; P.L.205-2013, SEC.201.

IC 12-15-19-9
Repealed

(Repealed by P.L.2-2005, SEC.131.)

IC 12-15-19-10
Priorities of payments

Sec. 10. This section does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10. For state fiscal years beginning after June 30, 2000, the state shall pay providers as follows:

(1) The state shall make municipal disproportionate share provider payments to providers qualifying under IC 12-15-16-1(b) until the state exceeds the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)).

(2) After the state makes all payments under subdivision (1), if the state fails to exceed the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)), the state shall make disproportionate share provider payments to providers qualifying under IC 12-15-16-1(a).

(3) After the state makes all payments under subdivision (2), if the state fails to exceed the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)), or the state limit on disproportionate share expenditures for institutions for mental diseases (as defined in 42 U.S.C. 1396r-4(h)), the state shall make community mental health center disproportionate share provider payments to providers qualifying under IC 12-15-16-1(c).

As added by P.L.126-1998, SEC.14. Amended by P.L.113-2000, SEC.17; P.L.283-2001, SEC.25; P.L.2-2005, SEC.49; P.L.229-2011, SEC.139; P.L.205-2013, SEC.202.

IC 12-15-19-10.1
Repealed

(Repealed by P.L.283-2001, SEC.39.)

IC 12-15-20
Chapter 20. Indigent Care Trust Fund

IC 12-15-20-1
Fund defined

Sec. 1. As used in this chapter, "fund" refers to the Medicaid indigent care trust fund established by this chapter.
As added by P.L.2-1992, SEC.9.

IC 12-15-20-2
Establishment of fund; payments from fund; priority

Sec. 2. The Medicaid indigent care trust fund is established to pay the non-federal share of the following:

(1) Enhanced disproportionate share payments to providers under IC 12-15-19-1.

(2) Subject to subdivision (8), disproportionate share payments to providers under IC 12-15-19-2.1.

(3) Medicaid payments for pregnant women described in IC 12-15-2-13 and infants and children described in IC 12-15-2-14.

(4) Municipal disproportionate share payments to providers under IC 12-15-19-8.

(5) Payments to hospitals under IC 12-15-15-9.

(6) Payments to hospitals under IC 12-15-15-9.5.

(7) Payments, funding, and transfers as otherwise provided in clauses (8)(D), (8)(F), and (8)(G).

(8) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund, the following apply:

(A) The entirety of the intergovernmental transfers deposited into the Medicaid indigent care trust fund for state fiscal years ending on or before June 30, 2000, shall be used to fund the state's share of the disproportionate share payments to providers under IC 12-15-19-2.1.

(B) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year ending June 30, 2001, an amount equal to one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998, and ending June 30, 1999, shall be used to fund the state's share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, for the state fiscal year shall be used to fund the state's share of additional Medicaid payments to hospitals licensed under IC 16-21 pursuant to a methodology adopted by the office.

(C) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund, for state fiscal years beginning July 1, 2001, and July 1, 2002, an amount equal to:

(i) one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998; minus

(ii) an amount equal to the amount deposited into the Medicaid indigent care trust fund under IC 12-15-15-9(d) for the state fiscal years beginning July 1, 2001, and July 1, 2002;

shall be used to fund the state's share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, must be used to fund the state's share of additional Medicaid payments to hospitals licensed under IC 16-21 pursuant to a methodology adopted by the office.

(D) The intergovernmental transfers, which shall include amounts transferred under IC 12-16-7.5-4.5, deposited into the Medicaid indigent care trust fund and the certifications of public expenditures deemed to be made to the medicaid indigent care trust fund, for the state fiscal years ending after June 30, 2005, but before July 1, 2007, shall be used, in descending order of priority, as follows:

(i) As provided in clause (B) of STEP THREE of IC 12-16-7.5-4.5(b)(1) and clause (B) of STEP THREE of IC 12-16-7.5-4.5(b)(2), to fund the amount to be transferred to the office.

(ii) As provided in clause (C) of STEP THREE of IC 12-16-7.5-4.5(b)(1) and clause (C) of STEP THREE of IC 12-16-7.5-4.5(b)(2), to fund the non-federal share of the payments made under IC 12-15-15-9 and IC 12-15-15-9.5.

(iii) To fund the non-federal share of the payments made under IC 12-15-15-1.1, IC 12-15-15-1.3, and IC 12-15-19-8.

(iv) As provided under clause (A) of STEP THREE of IC 12-16-7.5-4.5(b)(1) and clause (A) of STEP THREE of IC 12-16-7.5-4.5(b)(2), for the payment to be made under clause (A) of STEP FIVE of IC 12-15-15-1.5(b).

(v) As provided under STEP FOUR of IC 12-16-7.5-4.5(b)(1) and STEP FOUR of IC 12-16-7.5-4.5(b)(2), to fund the payments to be made under clause (B) of STEP FIVE of IC 12-15-15-1.5(b).

(vi) To fund, in an order of priority determined by the office to best use the available non-federal share, the programs listed in clause (H).

(E) For state fiscal years ending after June 30, 2007, the total amount of intergovernmental transfers used to fund the non-federal share of payments to hospitals under IC 12-15-15-9 and IC 12-15-15-9.5 shall not exceed the amount provided in clause (G)(ii).

(F) As provided in clause (D), for the following:

(i) Each state fiscal year ending after June 30, 2003, but

before July 1, 2005, an amount equal to the amount calculated under STEP THREE of the following formula shall be transferred to the office:

STEP ONE: Calculate the product of thirty-five million dollars ($35,000,000) multiplied by the federal medical assistance percentage for federal fiscal year 2003.

STEP TWO: Calculate the sum of the amounts, if any, reasonably estimated by the office to be transferred or otherwise made available to the office for the state fiscal year, and the amounts, if any, actually transferred or otherwise made available to the office for the state fiscal year, under arrangements whereby the office and a hospital licensed under IC 16-21-2 agree that an amount transferred or otherwise made available to the office by the hospital or on behalf of the hospital shall be included in the calculation under this STEP.

STEP THREE: Calculate the amount by which the product calculated under STEP ONE exceeds the sum calculated under STEP TWO.

(ii) The state fiscal years ending after June 30, 2005, but before July 1, 2007, an amount equal to thirty million dollars ($30,000,000) shall be transferred to the office.

(G) Subject to IC 12-15-20.7-2(b), for each state fiscal year ending after June 30, 2007, the total amount in the Medicaid indigent care trust fund, including the amount of intergovernmental transfers of funds transferred, and the amounts of certifications of expenditures eligible for federal financial participation deemed to be transferred, to the Medicaid indigent care trust fund, shall be used to fund the following:

(i) Thirty million dollars ($30,000,000) transferred to the office for the Medicaid budget.

(ii) An amount not to exceed the non-federal share of payments to hospitals under IC 12-15-15-9 and IC 12-15-15-9.5.

(iii) An amount not to exceed the non-federal share of payments to hospitals made under IC 12-15-15-1.1 and IC 12-15-15-1.3.

(iv) An amount not to exceed the non-federal share of disproportionate share payments to hospitals under IC 12-15-19-8.

(v) An amount not to exceed the non-federal share of payments to hospitals under clause (A) of STEP FIVE of IC 12-15-15-1.5(c).

(vi) An amount not to exceed the non-federal share of Medicaid safety-net payments.

(vii) An amount not to exceed the non-federal share of payments to hospitals made under clauses (C) or (D) of STEP FIVE of IC 12-15-15-1.5(c).

(viii) An amount not to exceed the non-federal share of

payments to hospitals made under clause (F) of STEP FIVE of IC 12-15-15-1.5(c).

(ix) An amount not to exceed the non-federal share of disproportionate share payments to hospitals under IC 12-15-19-2.1.

(x) If additional funds are available after making payments under items (i) through (ix), to fund other Medicaid supplemental payments for hospitals approved by the office and included in the Medicaid state plan.

Items (ii) through (x) do not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10.

(H) This clause does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10. For purposes of clause (D)(vi), the office shall fund the following:

(i) An amount equal to the non-federal share of the payments to the hospital that is eligible under this item, for payments made under clause (C) of STEP FIVE of IC 12-15-15-1.5(b) under an agreement with the office, Medicaid safety-net payments and any payment made under IC 12-15-19-2.1. The amount of the payments to the hospital under this item shall be equal to one hundred percent (100%) of the hospital's hospital-specific limit for state fiscal year 2005, when the payments are combined with payments made under IC 12-15-15-9, IC 12-15-15-9.5, and clause (B) of STEP FIVE of IC 12-15-15-1.5(b) for a state fiscal year. A hospital is eligible under this item if the hospital was eligible for Medicaid disproportionate share hospital payments for the state fiscal year ending June 30, 1998, the hospital received a Medicaid disproportionate share payment under IC 12-15-19-2.1 for state fiscal years 2001, 2002, 2003, and 2004, and the hospital merged two (2) hospitals under a single Medicaid provider number, effective January 1, 2004.

(ii) An amount equal to the non-federal share of payments to hospitals that are eligible under this item, for payments made under clause (C) of STEP FIVE of IC 12-15-15-1.5(b) under an agreement with the office, Medicaid safety-net payments, and any payment made under IC 12-15-19-2.1. The amount of payments to each hospital under this item shall be equal to one hundred percent (100%) of the hospital's hospital-specific limit for state fiscal year 2004, when the payments are combined with payments made to the hospital under IC 12-15-15-9, IC 12-15-15-9.5, and clause (B) of STEP FIVE of IC 12-15-15-1.5(b) for a state fiscal year. A hospital is eligible under this item if the hospital did not receive a payment under item (i), the hospital has less than sixty thousand (60,000) Medicaid inpatient days annually, the

hospital either was eligible for Medicaid disproportionate share hospital payments for the state fiscal year ending June 30, 1998, or the hospital met the office's Medicaid disproportionate share payment criteria based on state fiscal year 1998 data and received a Medicaid disproportionate share payment for the state fiscal year ending June 30, 2001, and the hospital received a Medicaid disproportionate share payment under IC 12-15-19-2.1 for state fiscal years 2001, 2002, 2003, and 2004.

(iii) Subject to IC 12-15-19-6, an amount not less than the non-federal share of Medicaid safety-net payments in accordance with the Medicaid state plan.

(iv) An amount not less than the non-federal share of payments made under clause (C) of STEP FIVE of IC 12-15-15-1.5(b) under an agreement with the office to a hospital having sixty thousand (60,000) Medicaid inpatient days annually.

(v) An amount not less than the non-federal share of Medicaid disproportionate share payments for hospitals eligible under this item, and made under IC 12-15-19-6 and the approved Medicaid state plan. A hospital is eligible for a payment under this item if the hospital is eligible for payments under IC 12-15-19-2.1.

(vi) If additional funds remain after the payments made under (i) through (v), payments approved by the office and under the Medicaid state plan, to fund the non-federal share of other Medicaid supplemental payments for hospitals.

As added by P.L.2-1992, SEC.9. Amended by P.L.27-1992, SEC.23; P.L.24-1997, SEC.50; P.L.126-1998, SEC.15; P.L.273-1999, SEC.174; P.L.113-2000, SEC.19; P.L.283-2001, SEC.26; P.L.1-2002, SEC.53; P.L.120-2002, SEC.17; P.L.255-2003, SEC.22; P.L.212-2007, SEC.10; P.L.218-2007, SEC.20; P.L.229-2011, SEC.140; P.L.205-2013, SEC.203.

IC 12-15-20-3
Expenses of administration

Sec. 3. The expenses of administering the fund shall be paid from money in the fund.

As added by P.L.2-1992, SEC.9.

IC 12-15-20-4
Investment of fund money

Sec. 4. (a) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(b) Interest that accrues from investments shall be deposited in the fund.

As added by P.L.2-1992, SEC.9.

IC 12-15-20-5
Records; balance in fund; investment earnings

Sec. 5. The office shall maintain records that show the amount of money in the fund and the amount of investment earnings on that amount.

As added by P.L.2-1992, SEC.9. Amended by P.L.27-1992, SEC.24.

IC 12-15-20-6
Money not to revert to general fund

Sec. 6. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.2-1992, SEC.9.

IC 12-15-20-7
Use of fund money; availability of matching federal financial participation

Sec. 7. Money in the fund may only be used for the purposes listed in section 2 of this chapter to the extent that federal financial participation under Medicaid is available to match the state money.

As added by P.L.2-1992, SEC.9.

IC 12-15-20-8
Repealed

(Repealed by P.L.27-1992, SEC.30.)

IC 12-15-20.5

Chapter 20.5. Disproportionate Share Providers

IC 12-15-20.5-1

Unavailability of federal matching funds; nonimplementation of state laws

Sec. 1. The office is not required to implement or continue to implement IC 12-15-16, IC 12-15-17, IC 12-15-18, IC 12-15-19, or IC 12-15-20 if the means of financial matching described is or becomes contrary to federal law.

As added by P.L.27-1992, SEC.25.

IC 12-15-20.7

Chapter 20.7. Payment Schedule

IC 12-15-20.7-1

Definitions

Sec. 1. As used in this chapter:

(1) "Medicaid inpatient payments for safety-net hospitals" means the payments provided for in the Medicaid state plan for inpatient services provided by hospitals that satisfy the definition of a safety-net hospital under the Medicaid state plan; and

(2) "Medicaid outpatient payments for safety-net hospitals" means the payments provided for in the Medicaid state plan for outpatient services provided by hospitals that satisfy the definition of a safety-net hospital under the Medicaid state plan.

As added by P.L.255-2003, SEC.23.

IC 12-15-20.7-2

Order of payments

Sec. 2. (a) This section does not apply during the period that the office is assessing a hospital fee authorized by IC 16-21-10. For each state fiscal year ending before July 1, 2005, and subject to section 3 of this chapter (repealed), the office shall make the payments identified in this section in the following order:

(1) First, payments under IC 12-15-15-9 and IC 12-15-15-9.5.

(2) Second, payments under clauses (A) and (B) of STEP FIVE of IC 12-15-15-1.5(b).

(3) Third, Medicaid inpatient payments for safety-net hospitals and Medicaid outpatient payments for safety-net hospitals.

(4) Fourth, payments under IC 12-15-15-1.1 and IC 12-15-15-1.3.

(5) Fifth, payments under IC 12-15-19-8 for municipal disproportionate share hospitals.

(6) Sixth, payments under IC 12-15-19-2.1 for disproportionate share hospitals.

(7) Seventh, payments under clause (C) of STEP FIVE of IC 12-15-15-1.5(b).

(b) For each state fiscal year ending after June 30, 2007, the office shall make the payments for the programs identified in IC 12-15-20-2(8)(G) in the order of priority that best utilizes available non-federal share, Medicaid supplemental payments, and Medicaid disproportionate share payments, and may change the order or priority at any time as necessary for the proper administration of one (1) or more of the payment programs listed in IC 12-15-20-2(8)(G).

As added by P.L.255-2003, SEC.23. Amended by P.L.212-2007, SEC.11; P.L.218-2007, SEC.21; P.L.229-2011, SEC.141; P.L.6-2012, SEC.92; P.L.205-2013, SEC.204.

IC 12-15-20.7-3

Repealed

(Repealed by P.L.212-2007, SEC.31; P.L.218-2007, SEC.52.)

IC 12-15-21
Chapter 21. Rules

IC 12-15-21-1
Acceptance by provider of Medicaid claim payment; agreement to comply with statutes and rules

Sec. 1. A provider who accepts payment of a claim submitted under the Medicaid program is considered to have agreed to comply with the statutes and rules governing the program.
As added by P.L.2-1992, SEC.9.

IC 12-15-21-2
Secretary to adopt rules; consistency with Title XIX of Social Security Act

Sec. 2. The secretary shall, with the advice of the office's medical staff, adopt rules under IC 4-22-2 and consistent with Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.) and regulations promulgated under the federal Social Security Act.
As added by P.L.2-1992, SEC.9.

IC 12-15-21-3
Required rules

Sec. 3. The rules adopted under section 2 of this chapter must include the following:

(1) Providing for prior review and approval of medical services.

(2) Specifying the method of determining the amount of reimbursement for services.

(3) Establishing limitations that are consistent with medical necessity concerning the amount, scope, and duration of the services and supplies to be provided. The rules may contain limitations on services that are more restrictive than allowed under a provider's scope of practice (as defined in Indiana law).

(4) Denying payment or instructing the contractor under IC 12-15-30 to deny payment to a provider for services provided to an individual or claimed to be provided to an individual if the office after investigation finds any of the following:

(A) The services claimed cannot be documented by the provider.

(B) The claims were made for services or materials determined by licensed medical staff of the office as not medically reasonable and necessary.

(C) The amount claimed for the services has been or can be paid from other sources.

(D) The services claimed were provided to a person other than the person in whose name the claim is made.

(E) The services claimed were provided to a person who was not eligible for Medicaid.

(F) The claim rises out of an act or practice prohibited by law or by rules of the secretary.

(5) Recovering payment or instructing the contractor under IC 12-15-30-3 to recover payment from a provider for services rendered to an individual or claimed to be rendered to an individual if the office after investigation finds any of the following:

(A) The services paid for cannot be documented by the provider.

(B) The amount paid for such services has been or can be paid from other sources.

(C) The services were provided to a person other than the person in whose name the claim was made and paid.

(D) The services paid for were provided to a person who was not eligible for Medicaid.

(E) The paid claim rises out of an act or practice prohibited by law or by rules of the secretary.

(6) Recovering interest due from a provider:

(A) at a rate that is the percentage rounded to the nearest whole number that equals the average investment yield on state general fund money for the state's previous fiscal year, excluding pension fund investments, as published in the auditor of state's comprehensive annual financial report; and

(B) accruing from the date of overpayment;

on amounts paid to the provider that are in excess of the amount subsequently determined to be due the provider as a result of an audit, a reimbursement cost settlement, or a judicial or an administrative proceeding.

(7) Paying interest to providers:

(A) at a rate that is the percentage rounded to the nearest whole number that equals the average investment yield on state general fund money for the state's previous fiscal year, excluding pension fund investments, as published in the auditor of state's comprehensive annual financial report; and

(B) accruing from the date that an overpayment is erroneously recovered by the office until the office restores the overpayment to the provider.

(8) Establishing a system with the following conditions:

(A) Audits may be conducted by the office after service has been provided and before reimbursement for the service has been made.

(B) Reimbursement for services may be denied if an audit conducted under clause (A) concludes that reimbursement should be denied.

(C) Audits may be conducted by the office after service has been provided and after reimbursement has been made.

(D) Reimbursement for services may be recovered if an audit conducted under clause (C) concludes that the money reimbursed should be recovered.

As added by P.L.2-1992, SEC.9. Amended by P.L.278-1993(ss), SEC.28; P.L.42-1995, SEC.23; P.L.107-1996, SEC.10; P.L.8-2005, SEC.2; P.L.113-2014, SEC.35.

IC 12-15-21-4
Rules not to eliminate type of provider licensed to provide services

Sec. 4. The rules adopted by the secretary may not eliminate a type of provider licensed to provide Medicaid services.
As added by P.L.2-1992, SEC.9.

IC 12-15-21-5
Rules not to be more restrictive than federal Medicaid reimbursement requirements

Sec. 5. (a) As used in this section, "facility" refers to an intermediate care facility for the mentally retarded (ICF/MR) not operated by a state agency.

(b) The rules adopted by the secretary may not establish eligibility criteria for Medicaid reimbursement for placement or services in a facility, including services provided under a Medicaid waiver, that are more restrictive than federal requirements for Medicaid reimbursement in a facility or under a Medicaid waiver.

(c) The office may not implement a policy that may not be adopted as a rule under subsection (b).
As added by P.L.78-1994, SEC.2. Amended by P.L.272-1999, SEC.41.

IC 12-15-21-6
Amendment of prior authorization rule

Sec. 6. (a) IC 4-22-2 does not apply to a rulemaking procedure under this section.

(b) The office may amend a rule regarding prior authorization (as defined in 405 IAC 1-6-2) that appears in the Indiana Administrative Code on January 1, 1996, to make the prior authorization rule less restrictive.

(c) If the office amends a prior authorization rule under this section, the office may later amend the prior authorization rule to restore, in whole or in part, the prior authorization rule as it was in effect on January 1, 1996.

(d) An amendment to a prior authorization rule under this section must comply with the notice requirements set forth in IC 12-15-13-6.
As added by P.L.107-1996, SEC.11.

IC 12-15-21-6.5
Family practice residency program

Sec. 6.5. A family practice residency program may choose to have the name of the residency program, the primary medical provider, or both, appear on the Medicaid identification card of a recipient who is enrolled in a Medicaid managed care program instead of just the name of the individual primary medical provider in the residency program to whom the recipient has been assigned.
As added by P.L.107-1996, SEC.12 and P.L.257-1996, SEC.11.

IC 12-15-21-7
Rules not to be more stringent than prior authorization rule

effective January 1, 1996

Sec. 7. The office may not amend a prior authorization rule to make it more stringent than the prior authorization rule as it was in effect on January 1, 1996, unless the office changes the rule through the rulemaking process.

As added by P.L.107-1996, SEC.13.

IC 12-15-22

Chapter 22. Provider Sanctions

IC 12-15-22-1

Denial of payment; rejection of participation application; provider agreement termination; civil penalty; interest charges

Sec. 1. If after investigation the office determines that a provider has violated a Medicaid statute or rule adopted under a Medicaid statute, the office may impose at least one (1) of the following sanctions:

(1) Denial of payment to the provider for Medicaid services provided during a specified time.

(2) Rejection of a prospective provider's application for participation in the Medicaid program.

(3) Termination of a provider agreement permitting a provider's participation in the Medicaid program.

(4) Assessment of a civil penalty against the provider in an amount not to exceed three (3) times the amount paid to the provider in excess of the amount that was legally due.

(5) Assessment of an interest charge, at a rate not to exceed the rate established by IC 24-4.6-1-101(2) for judgments on money, on the amount paid to the provider in excess of the amount that was legally due. The interest charge accrues from the date of the overpayment to the provider.

As added by P.L.2-1992, SEC.9.

IC 12-15-22-1.5

Ineligibility after conviction

Sec. 1.5. In addition to any sanction imposed on a provider under section 1 of this chapter, a provider convicted of an offense under IC 35-43-5-7.1 is ineligible to participate in the Medicaid program for ten (10) years after the conviction.

As added by P.L.46-1995, SEC.40.

IC 12-15-22-2

Administrative appeals; rules

Sec. 2. A provider may appeal a sanction under section 1 of this chapter under rules concerning appeal that are adopted by the secretary under IC 4-22-2.

As added by P.L.2-1992, SEC.9.

IC 12-15-22-3

Judicial review

Sec. 3. After exhausting all administrative remedies, a provider may obtain judicial review of a sanction under IC 4-21.5-5.

As added by P.L.2-1992, SEC.9.

IC 12-15-22-4

Denial of payment or termination of provider agreement; obligation of provider to inform individual services recipients

Sec. 4. A final directive made by the office that:

(1) denies payment to a provider for medical services provided during a specified period of time; or

(2) terminates a provider agreement permitting a provider's participation in the Medicaid program;

must direct the provider to inform each eligible individual recipient of services, before services are provided, that the office or the office's contractor under IC 12-15-30 will not pay for those services if provided.

As added by P.L.2-1992, SEC.9.

IC 12-15-22-5

Denial of payment, rejection of participation application or provider agreement termination; time to correct deficiencies

Sec. 5. Subject to section 6 of this chapter, a final directive:

(1) denying payment to a provider;

(2) rejecting a prospective provider's application for participation in the Medicaid program; or

(3) terminating a provider agreement permitting a provider's participation in the Medicaid program;

must be for a sufficient time, in the opinion of the administrator, to allow for the correction of all deficiencies or to prevent further abuses.

As added by P.L.2-1992, SEC.9.

IC 12-15-22-6

Eligibility; repayment of excess payments; payment of penalties

Sec. 6. A provider may not be declared to be eligible until the office has received the following:

(1) Full repayment of the amount paid to the provider in excess of the proper and legal amount due, including any interest charge assessed by the office.

(2) Full payment of a civil penalty assessed under section 1(4) of this chapter.

As added by P.L.2-1992, SEC.9.

IC 12-15-22-7

Provider subjected to sanction; agreement as provided in IC 12-15-11

Sec. 7. Except as provided in section 8 of this chapter, a provider who has been subjected to a sanction under section 1 of this chapter may file an agreement as provided in IC 12-15-11.

As added by P.L.2-1992, SEC.9.

IC 12-15-22-8

Eligibility to submit Medicaid claims; criminal convictions; repeated imposition of sanctions

Sec. 8. A provider who:

(1) has been convicted of a crime relating to the provision of services under this chapter; or

(2) has been subjected to a sanction under section 1 of this chapter on three (3) separate occasions by directive of the administrator;

is ineligible to submit claims for Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-23

Chapter 23. Improper Payments

IC 12-15-23-1

Reasonable grounds to suspect that provider has received payments to which it is not entitled; certification of evidence to Medicaid fraud control unit; exception

Sec. 1. Except as provided in section 2 of this chapter, if the administrator of the office determines that there are reasonable grounds to suspect that a provider has received payments that the provider is not entitled to under Medicaid, the administrator shall certify the evidence of the suspected activity to the state Medicaid fraud control unit established under IC 4-6-10.

As added by P.L.2-1992, SEC.9.

IC 12-15-23-2

Agreement for overpayment to be deducted from subsequent payments; authorization

Sec. 2. (a) If the office of the secretary of family and social services or administrator of the office determines that a provider has received payments the provider is not entitled to, the administrator may enter into an agreement with the provider stating that the amount of the overpayment shall be deducted from subsequent payments to the provider.

(b) If the office of the secretary of family and social services or the administrator of the office and the provider cannot come to an agreement within sixty (60) days after it is determined that a provider has received payments that the provider is not entitled to, the administrator may recoup the amount of overpayment to the provider claimed by the state from subsequent payments to the provider.

As added by P.L.2-1992, SEC.9. Amended by P.L.229-2011, SEC.142.

IC 12-15-23-3

Agreements to deduct overpayments from subsequent payments; interest provisions; other provisions

Sec. 3. An agreement under section 2 of this chapter:

(1) must include a provision for the collection of any interest due from the provider on the amount of the overpayment; and

(2) may include any other provisions agreed to by the administrator and the provider.

As added by P.L.2-1992, SEC.9. Amended by P.L.8-2005, SEC.3.

IC 12-15-23-4

Rules

Sec. 4. The secretary may adopt rules under IC 4-22-2 that provide procedures for the calculation of overpayments under this chapter.

As added by P.L.2-1992, SEC.9.

IC 12-15-23-5

Discovery of overpayment; time for entering into agreement; certification of facts to Medicaid fraud control unit

Sec. 5. If the administrator and a provider fail to enter into an agreement not more than sixty (60) days after the administrator's discovery of an overpayment, the administrator shall immediately certify the facts of the case to the Medicaid fraud control unit established under IC 4-6-10.

As added by P.L.2-1992, SEC.9.

IC 12-15-23-6

Determination by Medicaid fraud control unit; certification of facts to prosecuting attorney; reference of matter to attorney general

Sec. 6. (a) If the state Medicaid fraud control unit determines that an action based on the state Medicaid fraud control unit's investigations under the unit's authority under IC 4-6-10-1.5 is meritorious, the unit shall certify the facts drawn from the investigation to the prosecuting attorney of the judicial circuit in which the crime may have been committed.

(b) The state Medicaid fraud control unit shall assist the prosecuting attorney in prosecuting an action under this section.

(c) A prosecuting attorney to whom facts are certified under subsection (a) may refer the matter to the attorney general.

(d) If a matter has been referred to the attorney general under subsection (c), the attorney general may:

(1) file an information in a court with jurisdiction over the matter in the county in which the offense is alleged to have been committed; and

(2) prosecute the alleged offense.

As added by P.L.2-1992, SEC.9. Amended by P.L.10-1994, SEC.5; P.L.73-2003, SEC.3; P.L.149-2006, SEC.1.

IC 12-15-23-7

Action by attorney general; reference to administrator

Sec. 7. The attorney general may do either of the following:

(1) Bring a civil action upon the facts certified to the attorney general by the state Medicaid fraud control unit.

(2) Refer the matter to the administrator for appropriate action under IC 12-15-22.

As added by P.L.2-1992, SEC.9.

IC 12-15-23-8

Civil action; finding in favor of attorney general; treble damages; civil penalties; reimbursement of investigation costs

Sec. 8. (a) Subject to subsection (b), if the court finds in favor of the attorney general in a civil action brought by the attorney general under section 7 of this chapter, the court may do the following:

(1) Award damages against the provider of not more than three (3) times the amount paid to the provider in excess of the amount that was legally due.

(2) Assess a civil penalty against the provider of not more than

five hundred dollars ($500) for each instance of overpayment found by the court.

(3) Order the provider to reimburse the attorney general for the reasonable costs of the attorney general's investigation and enforcement action.

(4) Take any combination of the actions described in subdivisions (1), (2), and (3).

(b) The court may only take action under subsection (a)(2) and (a)(3) if the provider knew or had reason to know that an item or a service was not provided as claimed.

As added by P.L.2-1992, SEC.9. Amended by P.L.73-2003, SEC.4.

IC 12-15-23-9

Meritorious action; money recoverable exceeding cost of action

Sec. 9. In determining whether an action is meritorious, the attorney general may consider whether the amount of money recoverable under the action would exceed the cost of the action.

As added by P.L.2-1992, SEC.9.

IC 12-15-23-10

Action by attorney general; compromise

Sec. 10. An action brought under section 7 of this chapter may be compromised in the manner prescribed by IC 4-6-2-11.

As added by P.L.2-1992, SEC.9.

IC 12-15-23.5

Chapter 23.5. Coordination of Benefits Study

IC 12-15-23.5-1

"Covered entity"

Sec. 1. As used in this chapter, "covered entity" has the meaning set forth in 45 CFR 160.103.

As added by P.L.187-2007, SEC.3.

IC 12-15-23.5-2

Examination and recovery of Medicaid claims

Sec. 2. (a) Before January 1, 2008, the office shall:

(1) examine all Medicaid claims paid after January 1, 2001, and before July 1, 2007;

(2) determine which claims examined under subdivision (1) were eligible for payment by a third party other than Medicaid; and

(3) recover the claims that were determined under subdivision (2) to be eligible for payment by a third party other than Medicaid.

(b) The office shall require through an eligibility and benefit request, and a covered entity shall provide, any information necessary for the office to complete the examination required by this section. The office, after notice and hearing, may impose a fine not to exceed one thousand dollars ($1,000) for each refusal by a covered entity to provide information concerning an eligibility and benefit request for a Medicaid recipient requested by the office under this section.

As added by P.L.187-2007, SEC.3.

IC 12-15-23.5-3

Coordination of benefits procedures

Sec. 3. If at least one percent (1%) of the claims were determined under section 2 of this chapter to be eligible for payment by a third party other than Medicaid, the office shall develop and implement a procedure to improve the coordination of benefits between:

(1) the Medicaid program; and

(2) any other third party source of health care coverage provided to a recipient.

As added by P.L.187-2007, SEC.3.

IC 12-15-23.5-4

Procedure requirements

Sec. 4. If a procedure is developed and implemented under section 3 of this chapter, the procedure:

(1) must be automated; and

(2) must provide a system for determining whether a Medicaid claim is eligible for payment by another third party before the claim is paid under the Medicaid program.

As added by P.L.187-2007, SEC.3.

IC 12-15-24

Chapter 24. Theft; Kickbacks and Bribes

IC 12-15-24-1

Intent to deprive state of money or benefits; prima facie evidence for purposes of IC 35-43-4-2

Sec. 1. Evidence that a person or provider received money or other benefits as a result of a violation of:

(1) a provision of this article; or

(2) a rule established by the secretary under this article;

constitutes prima facie evidence, for purposes of IC 35-43-4-2, that the person or provider intended to deprive the state of a part of the value of the money or benefits.

As added by P.L.2-1992, SEC.9.

IC 12-15-24-2

Soliciting, offering, or receiving kickbacks, bribes, or fee or charge rebates; classification of violation

Sec. 2. A person who furnishes items or services to an individual for which payment is or may be made under this chapter and who solicits, offers, or receives a:

(1) kickback or bribe in connection with the furnishing of the items or services or the making or receipt of the payment; or

(2) rebate of a fee or charge for referring the individual to another person for the furnishing of items or services;

commits a Class A misdemeanor.

As added by P.L.2-1992, SEC.9.

IC 12-15-25

Chapter 25. Solicitation of Nonresidents

IC 12-15-25-1

Solicitation defined; prohibition

Sec. 1. (a) As used in this section, "solicitation" means a direct communication initiated by a provider doing business in Indiana to an individual or a provider in another state with the intent of inducing a nonresident of Indiana to relocate the person's residence to Indiana for the purpose of obtaining Medicaid under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(b) A provider that is:

(1) licensed by the state; and

(2) doing business in Indiana;

may not make a solicitation to a person who is eligible for Medicaid under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

As added by P.L.2-1992, SEC.9.

IC 12-15-25-2

Marketing or advertising not precluded

Sec. 2. This chapter does not preclude a provider from marketing or advertising the following:

(1) The provider's services to the general public.

(2) Special therapies or services, such as those offered to ventilator-dependent patients or patients with acquired immunodeficiency syndrome (AIDS) or Alzheimer's disease.

(3) Children's units.

As added by P.L.2-1992, SEC.9.

IC 12-15-25-3

Violations; sanctions

Sec. 3. A provider that violates this chapter is subject to the sanctions imposed under IC 12-15-22.

As added by P.L.2-1992, SEC.9.

IC 12-15-26

Chapter 26. Prior Authorization

IC 12-15-26-1

Prior authorization for mental health services; providers licensed under IC 25-33-1

Sec. 1. A health service provider in psychology licensed under IC 25-33-1 may submit a request for prior authorization (as defined in 405 IAC 1-6-2) for mental health services provided in the provider's private practice or a community mental health center authorized under IC 12-29 without the supervision or order of a physician.

As added by P.L.2-1992, SEC.9. Amended by P.L.140-1993, SEC.2.

IC 12-15-26-2

Psychiatrists practicing in employment of community mental health centers

Sec. 2. A psychiatrist practicing in the employment of a community mental health center must not be required to request prior authorization to treat Medicaid eligible patients if the request for prior authorization is not required of psychiatrists in private practice.

As added by P.L.2-1992, SEC.9.

IC 12-15-27

Chapter 27. Confidentiality and Release of Information

IC 12-15-27-1

Medicaid applicants and recipients; confidential records and documents

Sec. 1. The following concerning a Medicaid applicant or recipient under the Medicaid program are confidential, except as otherwise provided in this chapter:

(1) An application.
(2) An investigation report.
(3) An information.
(4) A record.

As added by P.L.2-1992, SEC.9.

IC 12-15-27-2

Authorized use and disclosure of confidential information

Sec. 2. The use and the disclosure of the information described in this chapter to persons authorized by law in connection with the official duties relating to:

(1) financial audits;
(2) legislative investigations; or
(3) other purposes directly connected with the administration of the plan;

is permitted.

As added by P.L.2-1992, SEC.9.

IC 12-15-27-3

Release and use of general information

Sec. 3. (a) The release and use of information of a general nature shall be provided as needed for adequate interpretation or development of the Medicaid program.

(b) The information under subsection (a) includes the following:

(1) Total Medicaid expenditures.
(2) The number of recipients.
(3) Statistical and social data used in connection with studies.
(4) Reports or surveys on health and welfare problems.

As added by P.L.2-1992, SEC.9.

IC 12-15-27-4

Report of recipients' names, identification numbers, and monthly amount of medical assistance received; public record; requests to examine

Sec. 4. (a) The office shall keep a file that contains a report showing the name and identification number of each recipient and the amount of medical assistance received each month under the Medicaid program.

(b) The report under subsection (a) is a public record open to public inspection at all times during the regular office hours of the office.

(c) A person who desires to examine a record, other than in pursuance of official duties as provided under Medicaid, must sign a written request to examine the record. The request must contain an agreement on the part of the signer that the signer will not utilize information gained from the information for religious, commercial, or political purposes.
As added by P.L.2-1992, SEC.9.

IC 12-15-27-5
Eligibility for federal financial participation; limitations on chapter; rules

Sec. 5. (a) If it is established that this chapter causes the state Medicaid plan to be ineligible for federal financial participation, the provision is limited or restricted to the extent that is essential to make the plan eligible for federal financial participation.

(b) The secretary shall establish rules under IC 4-22-2 that are necessary to carry out this section.
As added by P.L.2-1992, SEC.9.

IC 12-15-27-6
Eligibility information; immediate access systems

Sec. 6. The office shall make available the following for providing health care providers with immediate access to information indicating whether an individual is eligible for Medicaid:

(1) A twenty-four (24) hour telephone system.

(2) A computerized data retrieval system.

As added by P.L.2-1992, SEC.9.

IC 12-15-27-7
Limitations on eligibility information available through immediate access systems

Sec. 7. Information released under section 6 of this chapter is limited to the following:

(1) Disclosure of whether an individual has been determined to be eligible for Medicaid or whether the individual has an application pending.

(2) The date the individual became eligible for Medicaid and the individual's Medicaid number.

(3) Restrictions, if any, on the scope of services to be reimbursed under the Medicaid program for the individual.

(4) Information concerning third party liability.

As added by P.L.2-1992, SEC.9.

IC 12-15-27-8
Eligibility information obtained by health care providers; confidentiality

Sec. 8. Information obtained by a health care provider under this chapter concerning an individual's eligibility for Medicaid is confidential and may not be disclosed to any person.
As added by P.L.2-1992, SEC.9.

IC 12-15-27-8.5
Use and disclosure of voter registration records

Sec. 8.5. A person may not examine, disclose, or use any record described in this chapter concerning voter registration except in the manner permitted under IC 12-15-1.5.
As added by P.L.12-1995, SEC.122.

IC 12-15-27-9
Eligibility information access and confidentiality; rules

Sec. 9. The secretary shall adopt rules under IC 4-22-2 necessary to carry out sections 6, 7, and 8 of this chapter.
As added by P.L.2-1992, SEC.9.

IC 12-15-28

Chapter 28. Appeals and Hearings

IC 12-15-28-1

Decisions appealable to office

Sec. 1. An applicant for or a recipient of Medicaid may appeal to the office if one (1) of the following occurs:

(1) An application or a request is not acted upon by the county office within a reasonable time after the application or request is filed.

(2) The application is denied.

(3) The applicant or recipient is dissatisfied with the action of the county office.

(4) The recipient is dissatisfied with a determination made by the office under IC 12-15-8.5.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.115; P.L.5-1993, SEC.128; P.L.178-2002, SEC.86.

IC 12-15-28-2

Secretary to conduct hearings under IC 4-21.5

Sec. 2. The secretary shall conduct hearings and appeals concerning Medicaid under IC 4-21.5.

As added by P.L.2-1992, SEC.9.

IC 12-15-28-3

Notice of appeal; setting matter for hearing; opportunity for hearing; location

Sec. 3. The office shall, upon receipt of notice of appeal under section 1 of this chapter, set the matter for hearing and give the applicant or recipient an opportunity for a fair hearing in the county in which the recipient resides.

As added by P.L.2-1992, SEC.9.

IC 12-15-28-4

Hearing; introduction of evidence

Sec. 4. At the hearing, the applicant and county office may introduce additional evidence.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.116; P.L.5-1993, SEC.129.

IC 12-15-28-5

Conduct of hearing; rules

Sec. 5. The hearing shall be conducted under rules adopted by the secretary that are not inconsistent with IC 4-21.5 and the Medicaid program.

As added by P.L.2-1992, SEC.9.

IC 12-15-28-6

Additional investigations by office; decision by office to grant Medicaid

Sec. 6. The office:

(1) may make necessary additional investigations; and

(2) shall make decisions relative to the granting of Medicaid and the amount of Medicaid to be granted to the applicant that the office believes are justified and in conformity with the Medicaid program.

As added by P.L.2-1992, SEC.9.

IC 12-15-28-7

Decision by office to grant Medicaid assistance; effect

Sec. 7. A decision of the office made in conformity with the Medicaid program, including the establishment of dates of eligibility:

(1) is binding upon the county office involved;

(2) shall be complied with by the county office; and

(3) has the same effect as decisions of the county office from which the appeal is taken.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.117; P.L.5-1993, SEC.130.

IC 12-15-29
Chapter 29. Insurance

IC 12-15-29-0.5
"Insurer"
Sec. 0.5. As used in this chapter, "insurer" includes a pharmacy benefit manager.
As added by P.L.197-2013, SEC.14.

IC 12-15-29-1
Insurers; authorization to release information
Sec. 1. An applicant for or a recipient of Medicaid is considered to have authorized an insurer to release to the office information needed by the office to secure or enforce the office's rights under Medicaid.
As added by P.L.2-1992, SEC.9.

IC 12-15-29-2
Requests for information from insurers; limitation
Sec. 2. (a) Subject to subsection (b), an insurer shall furnish records or information pertaining to the coverage of an individual for the individual's medical costs under an individual or a group policy or other obligation, or the medical benefits paid or claims made under a policy or an obligation, if the office or its agent does the following:
(1) Requests the information electronically or by United States mail.
(2) Certifies that the individual is:
(A) a Medicaid applicant or recipient; or
(B) a person who is legally responsible for the applicant or recipient.
(b) The office may request only the records or information necessary to determine whether insurance benefits have been or should have been claimed and paid with respect to items of medical care and services that were received by a particular individual and for which Medicaid coverage would otherwise be available.
As added by P.L.2-1992, SEC.9. Amended by P.L.187-2007, SEC.4; P.L.234-2007, SEC.209; P.L.3-2008, SEC.94.

IC 12-15-29-3
Guidelines for information requests
Sec. 3. The administrator and the insurance commissioner shall establish guidelines for information requests under this chapter.
As added by P.L.2-1992, SEC.9.

IC 12-15-29-4
Direct payments by insurers to office; amount of payments
Sec. 4. (a) If:
(1) an insurer has not discharged the insurer's obligation to make payments to an individual for medical services;
(2) the individual has received Medicaid from the office; and

(3) the insurer has received notice that Medicaid has been furnished to the individual;

the insurer shall make payments directly to the office.

(b) The payments under subsection (a) may not exceed the amount of Medicaid paid by the office.

As added by P.L.2-1992, SEC.9.

IC 12-15-29-4.5

Insurer's acceptance of Medicaid claims

Sec. 4.5. (a) An insurer shall accept a Medicaid claim for a Medicaid recipient for three (3) years from the date the service was provided.

(b) An insurer may not deny a Medicaid claim submitted by the office solely on the basis of:

(1) the date of submission of the claim;

(2) the type or format of the claim form;

(3) the method of submission of the claim; or

(4) a failure to provide proper documentation at the point of sale that is the basis of the claim;

if the claim is submitted by the office within three (3) years from the date the service was provided as required in subsection (a) and the office commences action to enforce the office's rights regarding the claim within six (6) years of the office's submission of the claim.

(c) An insurer may not deny a Medicaid claim submitted by the office solely due to a lack of prior authorization. An insurer shall conduct the prior authorization on a retrospective basis for claims where prior authorization is necessary and adjudicate any claim authorized in this manner as if the claim received prior authorization.

As added by P.L.187-2007, SEC.5.

IC 12-15-29-5

Medicaid furnished by office; insurer put on notice of claim by office; insurer paying person or entity other than office; office's claim not discharged

Sec. 5. An insurer:

(1) that is put on notice of a claim by the office under section 4 of this chapter; and

(2) proceeds to pay the claim to a person or an entity other than the office;

is not discharged from payment of the office's claim.

As added by P.L.2-1992, SEC.9.

IC 12-15-29-6

Payment by insurer to office; discharge of obligation

Sec. 6. Payment to the office by an insurer under section 4 of this chapter discharges the insurer's obligation with respect to further payment on the claim for the amount paid.

As added by P.L.2-1992, SEC.9.

IC 12-15-29-7

Notice to insurer that Medicaid has been furnished; requirements; notification given office by insurer; payment of claim

Sec. 7. (a) The notice requirements of section 4 of this chapter are satisfied if:

(1) the insurer receives from the office, electronically or by United States mail, a statement of the claims paid or medical services rendered by the office, together with a claim for reimbursement; or

(2) the insurer receives a claim from a beneficiary stating that the beneficiary has applied for or has received Medicaid from the office in connection with the same claim.

(b) An insurer that receives a claim under subsection (a)(2) shall notify the office of the insurer's obligation on the claim and shall:

(1) pay the obligation to the provider of service; or

(2) if the office has provided Medicaid, pay the office.

As added by P.L.2-1992, SEC.9. Amended by P.L.187-2007, SEC.6.

IC 12-15-29-8

Unlawful insurance clause

Sec. 8. A clause of an insurance contract, plan, or agreement administered by an insurer is void if the clause limits or excludes enrollment or payments to an individual who is eligible for Medicaid.

As added by P.L.2-1992, SEC.9. Amended by P.L.46-1995, SEC.41.

IC 12-15-29-9

State's acquisition of person's right to payment

Sec. 9. (a) IC 27-8-23 applies to this section.

(b) To the extent that payment for covered medical expenses has been made under the state Medicaid program for health care items or services furnished to a person, in a case where a third party has a legal liability to make payments, the state is considered to have acquired the rights of the person to payment by any other party for the health care items or services.

(c) As required under 42 U.S.C. 1396a(a)(25), an insurer shall accept the state's right of recovery and the assignment to the state of any right of the individual or entity to payment for a health care item or service for which payment has been made under the state Medicaid plan.

As added by P.L.46-1995, SEC.42. Amended by P.L.187-2007, SEC.7.

IC 12-15-29-10

Employer sponsored health insurance to include coverage for child

Sec. 10. (a) IC 27-8-23 and IC 31-16-15 apply to this section.

(b) This section does not apply if an employer has eliminated family health coverage for all of its employees.

(c) Whenever a parent is required by a court or an administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in Indiana, the employer shall provide family health coverage to the

child in the manner described under IC 27-8-23-6 and in the notice under IC 31-16-15-4.5(b). In addition, the employer shall:

(1) withhold from the employee's compensation the employee's share, if any, of premiums for health coverage; and

(2) pay that amount to the insurer.

(d) Upon the initiation of withholding under subsection (c), an employee whose applicable child support order did not include a deduction from weekly available income for the cost of the health care premium is entitled to a modification of the child support order, taking into account the payments made as of the date withholding began.

As added by P.L.46-1995, SEC.43. Amended by P.L.80-2010, SEC.20.

IC 12-15-30

Chapter 30. Contracting

IC 12-15-30-1

Authorization of contracts for administration of program

Sec. 1. The office may contract with another state agency or other persons to administer any part of the Medicaid program.

As added by P.L.2-1992, SEC.9.

IC 12-15-30-2

Contract requirements and qualifications; preparation of bid specifications

Sec. 2. The office shall do the following:

(1) Prepare requirements, including qualifications, for bidders offering to contract with the state to perform the functions under section 3 of this chapter.

(2) Assist the Indiana department of administration in preparing bid specifications in conformity with requirements.

As added by P.L.2-1992, SEC.9.

IC 12-15-30-3

Medicaid claims; finance and administration; plan options

Sec. 3. The office shall select an approach to finance and administer Medicaid claims consisting of one (1) of the following:

(1) A direct provider payment plan administered by the office.

(2) A direct provider payment plan administered by a fiscal agent.

(3) A Medicaid insurance plan administered by a health insurer.

(4) Any combination of the plans described in this section.

As added by P.L.2-1992, SEC.9.

IC 12-15-30-4

Term of contracts; extensions

Sec. 4. (a) A contract to administer any part of the Medicaid program may be for an original term of not more than four (4) years.

(b) At the option of the office, the term of the contract may be extended for a term of not more than two (2) additional years.

(c) An extension may be granted for a contract that is in effect.

As added by P.L.2-1992, SEC.9.

IC 12-15-30-5

Subcontracts

Sec. 5. (a) A contractor with the state under this chapter may subcontract a part of the contract, subject to the approval of the office and the Indiana department of administration.

(b) A subcontract may not extend beyond the term of the contract.

(c) A contractor shall furnish information concerning the following:

(1) The amount of the subcontract.

(2) The qualifications of the subcontractor for guaranteeing

performance.

(3) Other information required by the state.

(d) A contract or subcontract executed under this section is a public record under IC 5-14-3-2.

As added by P.L.2-1992, SEC.9.

IC 12-15-30-6

Statement of adjusted actual Medicaid provider costs and insurance premiums; certification to auditor of state; payment by auditor of state

Sec. 6. (a) A contractor under section 1 of this chapter shall submit a detailed statement, at the times and in the form prescribed by the office, for the amount of adjusted actual Medicaid provider costs and insurance premiums.

(b) The office shall certify a statement under subsection (a) to the auditor of state, who shall pay the amount of the adjusted actual Medicaid provider costs and insurance premiums from the Medicaid account of the state general fund.

(c) The auditor of state may not pay a Medicaid provider costs in advance of services provided.

As added by P.L.2-1992, SEC.9.

IC 12-15-30-7

Statement requesting payment for fees for performance of administrative responsibilities; certification to auditor of state

Sec. 7. (a) A contractor under section 1 of this chapter shall submit a statement, at the times and in the form prescribed by the office, requesting payment for fees for performance of administrative responsibilities under contracts executed under this chapter.

(b) The office shall certify a statement under subsection (a) to the auditor of state, who shall pay the amount of the requested fees.

As added by P.L.2-1992, SEC.9.

IC 12-15-31
Repealed

(Repealed by P.L.291-2001, SEC.211.)

IC 12-15-31.1

Chapter 31.1. Adjustment of Pharmacy Dispensing Fees

IC 12-15-31.1-1

Dispensing fee surveys

Sec. 1. At least once every two (2) years, the office shall conduct a survey of pharmacy providers to assess the appropriate level of dispensing fees to be paid to providers for prescribed drugs.

As added by P.L.15-2002, SEC.1.

IC 12-15-31.1-2

Evaluation of other dispensing fees

Sec. 2. A survey under section 1 of this chapter must include an evaluation of dispensing fees in other states and the policies of the federal Centers for Medicare and Medicaid Services (formerly the Health Care Financing Administration).

As added by P.L.15-2002, SEC.1.

IC 12-15-31.1-3

Dispensing fee criteria

Sec. 3. A dispensing fee shall be evaluated based upon the following information concerning the costs of pharmacy operation:

(1) Operational data.
(2) Professional services data.
(3) Overhead data.
(4) Profit data.

As added by P.L.15-2002, SEC.1.

IC 12-15-31.1-4

Adjustment of dispensing fees

Sec. 4. If an adjustment in dispensing fees is made following a survey conducted under section 1 of this chapter, the secretary shall commence the rulemaking process under IC 4-22-2 to make the adjustment not later than November 1 of the year in which the survey was conducted.

As added by P.L.15-2002, SEC.1.

IC 12-15-32

Chapter 32. Community Residential Facilities for the Developmentally Disabled

IC 12-15-32-1

Facility defined

Sec. 1. As used in this chapter, "facility" means a facility licensed under IC 12-28-5 and certified under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) as an intermediate care facility for the mentally retarded.

As added by P.L.2-1992, SEC.9.

IC 12-15-32-2

Reimbursement for cost of services provided; authorization

Sec. 2. The office shall reimburse community residential facilities for the developmentally disabled for the cost of the Medicaid services that are provided by the facility to individuals who are eligible for Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-32-3

Repealed

(Repealed by P.L.78-1994, SEC.4.)

IC 12-15-32-4

Reimbursement rate criteria; necessary factors

Sec. 4. The criteria for reimbursement under this chapter must include the following:

(1) The method of determining initial rates of reimbursement.

(2) The method of determining the maximum rate of reimbursement.

(3) The frequency of rate reviews.

(4) The method of depreciating the buildings comprising the facilities.

(5) The establishment of a maximum depreciation expense.

(6) The inclusion of first aid supplies as a part of the room charge.

(7) The establishment of maximum costs of equipment purchases or repairs that may be allowed as depreciation expenses.

(8) The establishment of limitations on allowable interest expenses.

(9) The establishment of a limit on the duration of financing.

As added by P.L.2-1992, SEC.9. Amended by P.L.78-1994, SEC.3.

IC 12-15-32-4.5

Reimbursement for staff hours of employees

Sec. 4.5. (a) This section applies to a community residential facility for the developmentally disabled licensed as a child rearing residence that:

(1) is a home exclusively for children;
(2) has a behavior management program staffed by:
(A) a behavior management consultant; or
(B) personnel;
to develop and monitor behavioral training, developmental training, and support in specific areas for all residents who function on a similar level; and
(3) does not have more than six (6) beds.

(b) A community residential facility for the developmentally disabled is entitled to Medicaid reimbursement within available appropriations for staff hours of employees:
(1) hired to work at least two thousand eighty (2,080) paid staff hours per year per employee; and
(2) when the reimbursement requested is for not more than twelve (12) staff hours per resident per day.

As added by P.L.255-1996, SEC.7.

IC 12-15-32-5
Special interim rates

Sec. 5. The office may establish a special interim rate for each community residential facility to ensure that the reasonable special costs involved in the initial year of operation of a facility are reimbursed.

As added by P.L.2-1992, SEC.9.

IC 12-15-32-6
Facility residents; personal allowance; range of amounts

Sec. 6. The office shall allow a resident of a facility who is receiving Medicaid to retain a personal allowance of fifty-two dollars ($52) each month.

As added by P.L.2-1992, SEC.9. Amended by P.L.294-2001, SEC.5.

IC 12-15-32-6.5
Payment calculation for federal SSI recipient; exemption from income eligibility consideration

Sec. 6.5. (a) If a resident of a facility:
(1) is a recipient of assistance under the federal Supplemental Security Income (SSI) program; and
(2) receives an income that is less than the amount described in section 6 of this chapter;
the office shall pay to the individual an amount equal to the difference between the amount of the monthly personal allowance described in section 6 of this chapter and the amount of income, including assistance under the federal Supplemental Security Income (SSI) program received by the individual.

(b) Money paid to an individual under subsection (a) is exempt from income eligibility consideration.

As added by P.L.294-2001, SEC.6. Amended by P.L.26-2003, SEC.2.

IC 12-15-32-7

Rules; functioning level of resident; personal allowance

Sec. 7. The secretary may adopt rules under IC 4-22-2 to do the following:

(1) Establish criteria based on the functioning level of the residents.

(2) Determine the personal allowance to which each resident is entitled.

As added by P.L.2-1992, SEC.9.

IC 12-15-32-8

Personal allowance; income eligibility consideration; exemption

Sec. 8. A personal allowance is exempt from income eligibility consideration by the office.

As added by P.L.2-1992, SEC.9.

IC 12-15-32-9

Personal allowance; individuals employed as part of habilitation plan or working in sheltered workshop or day activity center

Sec. 9. The personal allowance for one (1) month for an individual described in section 6 of this chapter whose employment is part of the individual's habilitation plan or who is working in a sheltered workshop or day activity center is the amount that a person would be entitled to retain under section 6 of this chapter plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars ($16); plus

(B) the amount withheld from the individual's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the Federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month.

As added by P.L.2-1992, SEC.9.

IC 12-15-32-10

Placement in facility; diagnostic evaluations

Sec. 10. (a) An applicant for Medicaid who desires to be placed in a community residential facility must first receive a diagnostic evaluation to be provided by the division of disability and rehabilitative services.

(b) Subsequent diagnostic evaluations by the division of disability and rehabilitative services shall be provided at least every twelve (12) months to review the individual's need for services.

(c) The office shall consider the evaluations in determining the appropriateness of placement.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.118; P.L.5-1993, SEC.131; P.L.141-2006, SEC.55.

IC 12-15-32-11

Assessment upon total annual revenue of certain nonstate facilities;

Medicaid assessment account; unavailability of federal matching funds

Sec. 11. (a) The office may assess community residential facilities for the developmentally disabled (as defined in IC 12-7-2-61) and intermediate care facilities for the mentally retarded (ICF/MR) (as defined in IC 16-29-4-2) that are not operated by the state in an amount not to exceed ten percent (10%) of the total annual revenue of the facility for the facility's preceding fiscal year.

(b) The assessments shall be paid to the office of Medicaid policy and planning in equal monthly amounts on or before the tenth day of each calendar month. The office may withhold Medicaid payments to a provider described in subsection (a) that fails to pay an assessment within thirty (30) days after the due date. The amount withheld may not exceed the amount of the assessments due.

(c) Revenue from the assessments shall be credited to a special account within the state general fund to be called the Medicaid assessment account. Money in the account may be used only for services for which federal financial participation under Medicaid is available to match state funds. An amount equivalent to the federal financial participation estimated to be received for services financed from assessments under subsection (a) shall be used to finance Medicaid services provided by facilities described in subsection (a).

(d) If federal financial participation to match the assessments in subsection (a) becomes unavailable under federal law, the authority to impose the assessments terminates on the date that the federal statutory, regulatory, or interpretive change takes effect.

As added by P.L.27-1992, SEC.26. Amended by P.L.2-1993, SEC.102; P.L.291-2001, SEC.216; P.L.6-2002, SEC.6.

IC 12-15-33
Chapter 33. Medicaid Advisory Committee

IC 12-15-33-1
Committee defined
Sec. 1. As used in this chapter, "committee" refers to the Medicaid advisory committee created by this chapter.
As added by P.L.2-1992, SEC.9.

IC 12-15-33-2
Committee created
Sec. 2. The Medicaid advisory committee is created to act in an advisory capacity to the following:
(1) The office in the administration of the Medicaid program.
(2) The children's health policy board established by IC 4-23-27-2 in the board's responsibility to direct policy coordination of children's health programs.
As added by P.L.2-1992, SEC.9. Amended by P.L.273-1999, SEC.175.

IC 12-15-33-3
Membership; appointment
Sec. 3. The committee shall be appointed as follows:
(1) One (1) member shall be appointed by the administrator of the office to represent each of the following organizations:
(A) Indiana Council of Community Mental Health Centers.
(B) Indiana State Medical Association.
(C) Indiana State Chapter of the American Academy of Pediatrics.
(D) Indiana Hospital Association.
(E) Indiana Dental Association.
(F) Indiana State Psychiatric Association.
(G) Indiana State Osteopathic Association.
(H) Indiana State Nurses Association.
(I) Indiana State Licensed Practical Nurses Association.
(J) Indiana State Podiatry Association.
(K) Indiana Health Care Association.
(L) Indiana Optometric Association.
(M) Indiana Pharmaceutical Association.
(N) Indiana Psychological Association.
(O) Indiana State Chiropractic Association.
(P) Indiana Ambulance Association.
(Q) Indiana Association for Home Care.
(R) Indiana Academy of Ophthalmology.
(S) Indiana Speech and Hearing Association.
(2) Ten (10) members shall be appointed by the governor as follows:
(A) One (1) member who represents agricultural interests.
(B) One (1) member who represents business and industrial interests.

(C) One (1) member who represents labor interests.
(D) One (1) member who represents insurance interests.
(E) One (1) member who represents a statewide taxpayer association.
(F) Two (2) members who are parent advocates.
(G) Three (3) members who represent Indiana citizens.

(3) One (1) member shall be appointed by the president pro tempore of the senate acting in the capacity as president pro tempore of the senate to represent the senate.

(4) One (1) member shall be appointed by the speaker of the house of representatives to represent the house of representatives.

As added by P.L.2-1992, SEC.9. Amended by P.L.157-1995, SEC.1; P.L.158-1995, SEC.1; P.L.42-1995, SEC.24; P.L.109-1996, SEC.2; P.L.273-1999, SEC.176.

IC 12-15-33-4
Expiration of term; designation of successor

Sec. 4. An appointment to the committee terminates July 1 of the year in which the appointment expires, but a member serves until the member's successor is designated.

As added by P.L.2-1992, SEC.9.

IC 12-15-33-5
Term of office

Sec. 5. An appointment to the committee is for a four (4) year term, except the representatives of the senate and house of representatives, whose terms coincide with the representative's or senator's respective legislative terms.

As added by P.L.2-1992, SEC.9.

IC 12-15-33-6
Ex officio members

Sec. 6. The following shall serve as ex officio members of the committee:

(1) The state health commissioner or the commissioner's designee.

(2) The director of the division of mental health and addiction or the director's designee.

(3) The administrator of the office.

As added by P.L.2-1992, SEC.9. Amended by P.L.215-2001, SEC.45.

IC 12-15-33-7
Committee secretary

Sec. 7. The administrator of the office shall serve as secretary of the committee.

As added by P.L.2-1992, SEC.9.

IC 12-15-33-8
Subcommittees

Sec. 8. A subcommittee may be created as the committee considers necessary. The chairman of each subcommittee must be a member of the committee.
As added by P.L.2-1992, SEC.9.

IC 12-15-33-9
Meetings

Sec. 9. The committee shall do the following:

(1) Meet at least four (4) times each year, one (1) time in each calendar quarter.

(2) Hold special meetings that the committee or the secretary requests.

As added by P.L.2-1992, SEC.9.

IC 12-15-33-10
Travel allowance

Sec. 10. Appointed members of the committee are entitled to receive travel allowance to and from regular or special meetings in accordance with the amounts set by and the provisions of the budget committee for state employees.
As added by P.L.2-1992, SEC.9.

IC 12-15-33.5

Chapter 33.5. Medicaid Clinical Advisory Committee

IC 12-15-33.5-1

"Committee" defined

Sec. 1. As used in this chapter, "committee" refers to the Medicaid clinical advisory committee established under this chapter.

As added by P.L.42-1995, SEC.25.

IC 12-15-33.5-2

Establishment

Sec. 2. The office shall establish a clinical advisory committee to provide clinical insights and applications of clinical policy issues related to programs administered by the office, including issues related to:

(1) current standards of care;
(2) quality of care;
(3) accessibility of care;
(4) appropriateness of care; and
(5) cost-effectiveness of care.

As added by P.L.42-1995, SEC.25.

IC 12-15-33.5-3

Membership; meetings; consultations; ad hoc clinical advisory committee

Sec. 3. (a) The committee consists of at least seven (7) members and not more than thirteen (13) members.

(b) The office's medical consultant shall serve as the chairperson of the committee.

(c) The committee shall include at least seven (7) physicians who are:

(1) licensed under IC 25-22.5; and
(2) actively engaged in the practice of medicine.

(d) The office shall select the remaining committee members from the medical provider community to represent the services most critical to the Medicaid recipient population.

(e) The committee shall meet:

(1) one (1) time every two (2) months; or
(2) as determined necessary by the chairperson.

(f) The committee may consult as needed with other persons who have expertise in any clinical policy issue being considered by the committee.

(g) If the committee established under subsection (a) considers a change in clinical policy related to care and services provided under:

(1) IC 25-10 (chiropractic services);
(2) IC 25-14 (dental services);
(3) IC 25-24 and IC 25-26 (eye care services); or
(4) IC 25-29 (foot care services);

the office shall establish an ad hoc clinical advisory committee comprised of three (3) licensed non-physician practitioners directly

affected by the proposed clinical policy change.

(h) The chairperson of a committee under subsection (g) shall be the office's medical consultant.

(i) When an ad hoc clinical advisory committee is established under subsection (g)(3), one (1) member of the committee shall be a physician licensed under IC 25-22.5 who provides services similar to those provided by an optometrist licensed under IC 25-24 or IC 25-26.

(j) A committee established under subsection (g) shall provide clinical insights and applications of clinical policy issues relating to:

(1) current standards of care;

(2) quality of care;

(3) accessibility of care;

(4) appropriateness of care; and

(5) cost-effectiveness of care.

As added by P.L.42-1995, SEC.25.

IC 12-15-34

Chapter 34. Home Health Care Services; Office of Medicaid Policy and Planning

IC 12-15-34-1

"Home health agency" defined

Sec. 1. As used in this chapter, "home health agency" means a public or private organization, whether owned or operated by one (1) or more persons, that furnishes or offers to furnish home health services.

As added by P.L.2-1992, SEC.9.

IC 12-15-34-2

"Home health services" defined

Sec. 2. (a) As used in this chapter, "home health services" means any of the following items or services furnished to an individual by a home health agency or by others under arrangements with a home health agency on a visiting basis, and except as provided in subsection (b), in a place of temporary or permanent residence used as the individual's home:

(1) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse.

(2) Physical, occupational, or speech therapy or other therapeutic services.

(3) Medical social services.

(4) Home health aid services.

(5) Medical supplies other than drugs and biologicals.

(6) The use of medical appliances.

(7) Homemaking services provided by the home health agency to help the individual stay in the individual's own home.

(b) The term includes items and services of a kind described in subsection (a)(1) through (a)(6) that:

(1) are provided on an outpatient basis under arrangements made by a home health agency at a hospital, health facility, or rehabilitation center; and

(2) either:

(A) involve the use of equipment of a nature that cannot readily be made available to the individual in the individual's home; or

(B) that are furnished at the hospital, health facility, or rehabilitation center while the individual is there to receive items or services.

(c) The term does not include transportation of the individual in connection with receiving items or services described in subsection (b)(1) and (b)(2).

As added by P.L.2-1992, SEC.9. Amended by P.L.2-1995, SEC.49.

IC 12-15-34-3

Items and services furnished either by home health agency or by others under arrangements with home health agency; exception

Sec. 3. Home health services includes items and services furnished to an individual by either of the following:

(1) A home health agency.

(2) Others under arrangements with a home health agency on a visiting basis and, except for section 4(5) of this chapter, in a place of temporary or permanent residence used as the individual's home.

As added by P.L.2-1992, SEC.9.

IC 12-15-34-4

Items and services included under IC 12-15-34-2 definition of home health services

Sec. 4. The items and services under section 2 of this chapter include the following:

(1) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse.

(2) Physical, occupational, or speech therapy or other therapeutic services.

(3) Medical social services and home health aid services.

(4) Medical supplies other than drugs and biologicals and the use of medical appliances.

(5) Any of the items and services under subdivisions (1), (2), (3), and (4) that:

(A) are provided on an outpatient basis under arrangements made by a home health agency at a hospital, health care facility, or rehabilitation center; and

(B) involves the use of equipment of a nature that the items and services cannot readily be made available to the individual in the individual's home or that are furnished at the facility while the individual is there to receive any item or service, but not including transportation of the individual in connection with the item or service.

(6) Homemaking services provided by the agency to help the individual's stay in the individual's own home.

As added by P.L.2-1992, SEC.9.

IC 12-15-34-5

Office and secretary; actions, directions, and rules; providing of services and ensuring uniform equitable treatment of applicants and recipients

Sec. 5. The office and the secretary shall:

(1) take action;

(2) give directions; and

(3) adopt rules under IC 4-22-2;

necessary to carry out this chapter and the federal Social Security Act concerning the providing of services and to ensure uniform equitable treatment of all applicants for and recipients of Medicaid supportive services in the recipients' own homes.

As added by P.L.2-1992, SEC.9.

IC 12-15-34-6
Contracts for services; authorization

Sec. 6. The office may contract with any of the following to purchase the necessary services to implement this chapter:

(1) A state, public, or private agency.
(2) A business firm.
(3) A corporation.

As added by P.L.2-1992, SEC.9.

IC 12-15-34-7
Contracts; maximum term

Sec. 7. A contract made with the following may be for a term not to exceed three (3) years:

(1) A public or private agency.
(2) A business firm.
(3) A foundation.
(4) A corporation.

As added by P.L.2-1992, SEC.9.

IC 12-15-34-8
Preparation of qualifications and specifications for bidders

Sec. 8. The office shall assist the Indiana department of administration in the preparation of qualifications and specifications for bidders contracting with the state to administer the fiscal provisions of or to provide services under this chapter.

As added by P.L.2-1992, SEC.9.

IC 12-15-34-9
Subcontracts; authorization; term

Sec. 9. A contractor with the state under this chapter may subcontract a part of the contractor's prime contract. However, a subcontract may not extend beyond the term of the prime contract.

As added by P.L.2-1992, SEC.9.

IC 12-15-34-10
Subcontracts; approval

Sec. 10. A subcontract let by a prime contractor must be approved by the office and the Indiana department of administration.

As added by P.L.2-1992, SEC.9.

IC 12-15-34-11
Subcontracts; information furnished to office

Sec. 11. The contractor or the subcontractor shall furnish the following information to the office:

(1) The amount of the subcontract.
(2) The qualifications of the subcontractor for guaranteeing performance.
(3) Other data required by the state.

As added by P.L.2-1992, SEC.9.

IC 12-15-34-12
Contract or subcontract; availability to legislative council

Sec. 12. Upon request, a contract or subcontract shall be made available to the legislative council or the council's representative for inspection and examination.

As added by P.L.2-1992, SEC.9.

IC 12-15-34-13
Plan for purchase of services under IC 4-23-17-9.3

Sec. 13. The office shall include in the division's state plan for the purchase of services under IC 4-23-17-9.3 (repealed) a comprehensive program for the provision of home health services to an individual who is eligible for Medicaid.

As added by P.L.2-1992, SEC.9. Amended by P.L.1-2009, SEC.103.

IC 12-15-34-14
Utilization review procedures

Sec. 14. The office shall develop adequate utilization review procedures for home health agencies to conform to federal guidelines.

As added by P.L.2-1992, SEC.9.

IC 12-15-35

Chapter 35. Drug Utilization Review

IC 12-15-35-1

"Appropriate and medically necessary" defined

Sec. 1. As used in this chapter, "appropriate and medically necessary" means drug prescribing, drug dispensing, and patient medication usage in conformity with the criteria and standards developed under this chapter.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-2

"Board" defined

Sec. 2. As used in this chapter, "board" refers to the drug utilization review board created under this chapter.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-3

"Compendia" defined

Sec. 3. As used in this chapter, "compendia" means those resources widely accepted by the medical profession in the efficacious use of drugs, including the following sources:

(1) The American Hospital Formulary Services Drug Information.

(2) The U.S. Pharmacopeia-Drug Information.

(3) The American Medical Association Drug Evaluations.

(4) The peer-reviewed medical literature.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-4

"Counseling" defined

Sec. 4. As used in this chapter, "counseling" means the activities conducted by a pharmacist to inform Medicaid recipients about the proper use of drugs as required by the board under this chapter.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-4.5

"Covered outpatient drug" defined

Sec. 4.5. As used in this chapter, "covered outpatient drug" has the meaning set forth in 42 U.S.C. 1396r-8(k)(2).

As added by P.L.107-2002, SEC.12.

IC 12-15-35-5

"Criteria" defined

Sec. 5. As used in this chapter, "criteria" means the predetermined and explicitly accepted elements that are used to measure drug use on an ongoing basis to determine if the use is appropriate, medically necessary, and not likely to result in adverse medical outcomes.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-6
"Drug-disease contraindication" defined

Sec. 6. As used in this chapter, "drug-disease contraindication" means an occurrence in which the therapeutic effect of a drug is adversely altered by the presence of another disease condition.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-7
"Drug-drug interaction" defined

Sec. 7. As used in this chapter, "drug-drug interaction" means an occurrence in which at least two (2) drugs taken by a recipient leads to clinically significant toxicity that:

(1) is characteristic of one (1) or any of the drugs present; or
(2) leads to the interference with the effectiveness of one (1) or any of the drugs.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-8
"Drug utilization review" or "DUR" defined

Sec. 8. As used in this chapter, "drug utilization review" or "DUR" means the program designed to measure and assess on a retrospective and a prospective basis the proper use of outpatient drugs in the Medicaid program.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-9
"Intervention" defined

Sec. 9. As used in this chapter, "intervention" means an action taken by the board with a prescriber or pharmacist to inform about or to influence prescribing or dispensing practices or utilization of drugs.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-10
"Overutilization or underutilization" defined

Sec. 10. As used in this chapter, "overutilization or underutilization" means the use of a drug in such quantities where the desired therapeutic goal is not achieved.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-11
"Pharmacist" defined

Sec. 11. As used in this chapter, "pharmacist" means an individual who is licensed as a pharmacist in Indiana under IC 25-26.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-12
"Physician" defined

Sec. 12. As used in this chapter, "physician" means an individual who is licensed to practice medicine in Indiana under IC 25-22.5.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-13
"Prospective DUR" defined

Sec. 13. As used in this chapter, "prospective DUR" means the part of the drug utilization review program that:

(1) is to occur before the drug is dispensed;

(2) is designed to screen for potential drug therapy problems based on explicit and predetermined criteria and standards that are developed on an ongoing basis with professional input; and

(3) is to provide for the counseling of recipients about the proper use of drugs.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-14
"Retrospective DUR" defined

Sec. 14. As used in this chapter, "retrospective DUR" means the part of the drug utilization review program that assesses or measures drug use based on an historical review of drug use data against predetermined and explicit criteria and standards that are developed on an ongoing basis with professional input.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-15
"Standards" defined

Sec. 15. As used in this chapter, "standards" means the acceptable range of deviation from the criteria that reflects local medical practice and that is tested on the Medicaid recipient database.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-16
"SURS" defined

Sec. 16. As used in this chapter, "SURS" refers to the surveillance utilization review system of the Medicaid program.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-17
"Therapeutic appropriateness" defined

Sec. 17. As used in this chapter, "therapeutic appropriateness" means drug prescribing based on rational drug therapy that is consistent with the criteria and standards developed under this chapter.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-17.5
"Therapeutic classification" or "therapeutic category" defined

Sec. 17.5. As used in this chapter, "therapeutic classification" or "therapeutic category" means a group of pharmacologic agents primarily characterized by a significant similarity of the biochemical or physiological mechanism by which these agents result in the

intended clinical outcome.
As added by P.L.107-2002, SEC.13.

IC 12-15-35-18
"Therapeutic duplication" defined

Sec. 18. As used in this chapter, "therapeutic duplication" means the prescribing and dispensing of:

(1) the same drug; or

(2) at least two (2) drugs from the same therapeutic class;

where overlapping periods of drug administration are involved and where such prescribing or dispensing is not medically indicated.
As added by P.L.75-1992, SEC.19.

IC 12-15-35-18.5
Application of chapter

Sec. 18.5. This chapter applies to any contractor or vendor of the state responsible for providing or managing any part of the Medicaid outpatient drug program.
As added by P.L.76-1994, SEC.2.

IC 12-15-35-18.7
Formulary requirements

Sec. 18.7. A formulary established by a Medicaid managed care organization is subject to sections 46 and 47 of this chapter.
As added by P.L.231-1999, SEC.2.

IC 12-15-35-19
Drug utilization review board; establishment

Sec. 19. The drug utilization review board is established.
As added by P.L.75-1992, SEC.19.

IC 12-15-35-20
Membership of board

Sec. 20. The board is composed of the following:

(1) Four (4) individuals licensed and actively engaged in the practice of medicine or osteopathic medicine in Indiana under IC 25-22.5.

(2) Four (4) individuals licensed under IC 25-26 and actively engaged in the practice of pharmacy in Indiana.

(3) One (1) individual with expertise in therapeutic pharmacology who is neither a physician or a pharmacist.

(4) A representative of the office who shall serve as an ex-officio nonvoting member of the board.

(5) One (1) individual who:

(A) is employed by a health maintenance organization that has a pharmacy benefit; and

(B) has expertise in formulary development and pharmacy benefit administration.

The individual appointed under this subdivision may not be employed by a health maintenance organization that is under

contract or subcontract with the state to provide services to Medicaid recipients under this article.

(6) One (1) individual who is a health economist.

As added by P.L.75-1992, SEC.19. Amended by P.L.231-1999, SEC.3.

IC 12-15-35-20.1
Conflicts of interest

Sec. 20.1. (a) Each board member and each therapeutics committee member shall fully disclose any potential conflicts of interest, financial or otherwise, relating to an issue that comes before the board or committee for recommendation or other action.

(b) A board member or therapeutics committee member may not vote on a recommendation or other action if the member or the member's employer has a conflict of interest, financial or otherwise, in the outcome of the vote.

(c) A board member or therapeutics committee member who may not vote on a recommendation or other action under subsection (b) may still participate in any discussions regarding the recommendation or other action.

As added by P.L.231-1999, SEC.4. Amended by P.L.107-2002, SEC.14.

IC 12-15-35-20.5
Therapeutics committee established; members; limitations; terms; votes; meetings

Sec. 20.5. (a) The therapeutics committee is established as a subcommittee of the board.

(b) The chairperson of the board elected under section 25 of this chapter shall, with the approval of a majority of a quorum of the board, appoint the members of the therapeutics committee.

(c) The therapeutics committee is composed of the following members:

(1) Five (5) physicians licensed under IC 25-22.5, including:

(A) one (1) physician with expertise in the area of family practice;

(B) one (1) physician with expertise in the area of pediatrics;

(C) one (1) physician with expertise in the area of geriatrics;

(D) one (1) physician with expertise in psychiatric medicine; and

(E) one (1) physician with expertise in the area of internal medicine and who specializes in the treatment of diabetes.

(2) Two (2) pharmacists who are licensed under IC 25-26 and who have a doctor of pharmacy degree or an equivalent degree.

(d) Not more than three (3) of the individuals appointed by the chairperson under subsection (b) to the therapeutics committee may also be members of the board.

(e) At least three (3) of the members described in subsection (c)(1) and appointed under subsection (b) must have at least three (3) years of recent experience in prescription drug formulary management,

including therapeutic category review.

(f) A member of the therapeutics committee may not:

(1) be employed by; or

(2) contract with;

the state or a pharmaceutical manufacturer or labeler. However, this subsection does not apply to a physician or a pharmacist whose only contract with the state is a Medicaid provider agreement under IC 12-15-11 or a provider agreement under the children's health insurance program under IC 12-17.6.

(g) The term of a member of the therapeutics committee is three (3) years. A member may be reappointed to the committee upon the completion of the member's term.

(h) The expenses of the therapeutics committee shall be paid by the office.

(i) Each member of the therapeutics committee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(j) The affirmative votes of a majority of a quorum of the therapeutics committee are required for the committee to take action on any measure. A quorum of the therapeutics committee consists of four (4) members.

(k) The therapeutics committee shall meet:

(1) upon the call of the chairperson of the therapeutics committee; and

(2) at least quarterly.

(l) The chairperson and the vice chairperson of the therapeutics committee:

(1) each serve for a term of one (1) year; and

(2) must be elected from the therapeutics committee's membership at the therapeutics committee's first meeting each calendar year.

(m) A meeting held by the therapeutics committee must be open to the public in accordance with IC 5-14-1.5. However, the therapeutics committee may meet in executive session only for the purpose of reviewing confidential or proprietary information.

As added by P.L.107-2002, SEC.15.

IC 12-15-35-21

Board; appointment; term

Sec. 21. (a) The members of the board shall be appointed by the governor and serve a term of three (3) years.

(b) The governor shall fill a vacancy on the board by appointing a new member to serve the remainder of the unexpired term.

(c) The governor may remove a member for cause.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-22
Qualifications of board members

Sec. 22. Board members must have expertise in one (1) or more of the following:

(1) Clinically appropriate prescribing of outpatient drugs.
(2) Clinically appropriate dispensing and monitoring of outpatient drugs.
(3) Drug utilization review, evaluation, and intervention.
(4) Medical quality assurance.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-23
Physician appointments; geographic balance

Sec. 23. In making the physician appointments, the governor shall provide for geographic balance.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-24
Reappointment of members

Sec. 24. An individual appointed to the board may be reappointed upon the completion of the individual's term.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-25
Chairman; compensation; expenses

Sec. 25. (a) The board shall annually elect a chairman from the members of the board.

(b) The chairman may be re-elected to serve consecutive terms as chairman.

(c) A member of the board who is not a state employee is entitled to the minimum salary per diem as provided by IC 4-10-11-2.1(b). Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and the budget agency.

(d) Each member of the board who is a state employee is entitled to reimbursement for traveling expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-26
Additional staff

Sec. 26. (a) The secretary shall provide additional staff to the board.

(b) The secretary shall provide staff for the therapeutics committee.

As added by P.L.75-1992, SEC.19. Amended by P.L.291-2001,

SEC.162; P.L.107-2002, SEC.16.

IC 12-15-35-27
Retrospective and prospective DUR program responsibility

Sec. 27. The board is responsible for the oversight of the retrospective and prospective DUR program.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-28
Duties of the board; preferred drug list; report

Sec. 28. (a) The board has the following duties:

(1) The adoption of rules to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any office approval that is required by the federal Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508 and its implementing regulations.

(2) The implementation of a Medicaid retrospective and prospective DUR program as outlined in this chapter, including the approval of software programs to be used by the pharmacist for prospective DUR and recommendations concerning the provisions of the contractual agreement between the state and any other entity that will be processing and reviewing Medicaid drug claims and profiles for the DUR program under this chapter.

(3) The development and application of the predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR to ensure that such criteria and standards for appropriate prescribing are based on the compendia and developed with professional input with provisions for timely revisions and assessments as necessary.

(4) The development, selection, application, and assessment of interventions for physicians, pharmacists, and patients that are educational and not punitive in nature.

(5) The publication of an annual report that must be subject to public comment before issuance to the federal Department of Health and Human Services and to the Indiana legislative council by December 1 of each year. The report issued to the legislative council must be in an electronic format under IC 5-14-6.

(6) The development of a working agreement for the board to clarify the areas of responsibility with related boards or agencies, including the following:

(A) The Indiana board of pharmacy.

(B) The medical licensing board of Indiana.

(C) The SURS staff.

(7) The establishment of a grievance and appeals process for physicians or pharmacists under this chapter.

(8) The publication and dissemination of educational information to physicians and pharmacists regarding the board and the DUR program, including information on the following:

(A) Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.
(B) Potential or actual severe or adverse reactions to drugs.
(C) Therapeutic appropriateness.
(D) Overutilization or underutilization.
(E) Appropriate use of generic drugs.
(F) Therapeutic duplication.
(G) Drug-disease contraindications.
(H) Drug-drug interactions.
(I) Incorrect drug dosage and duration of drug treatment.
(J) Drug allergy interactions.
(K) Clinical abuse and misuse.

(9) The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program that identifies individual physicians, pharmacists, or recipients.

(10) The implementation of additional drug utilization review with respect to drugs dispensed to residents of nursing facilities shall not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3.1 and 42 CFR 483.60.

(11) The research, development, and approval of a preferred drug list for:
(A) Medicaid's fee for service program;
(B) Medicaid's primary care case management program;
(C) Medicaid's risk based managed care program, if the office provides a prescription drug benefit and subject to IC 12-15-5; and
(D) the children's health insurance program under IC 12-17.6;
in consultation with the therapeutics committee.

(12) The approval of the review and maintenance of the preferred drug list at least two (2) times per year.

(13) The preparation and submission of a report concerning the preferred drug list at least one (1) time per year to the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.

(14) The collection of data reflecting prescribing patterns related to treatment of children diagnosed with attention deficit disorder or attention deficit hyperactivity disorder.

(15) Advising the Indiana comprehensive health insurance association established by IC 27-8-10-2.1 concerning implementation of chronic disease management and pharmaceutical management programs under IC 27-8-10-3.5.

(b) The board shall use the clinical expertise of the therapeutics committee in developing a preferred drug list. The board shall also

consider expert testimony in the development of a preferred drug list.

(c) In researching and developing a preferred drug list under subsection (a)(11), the board shall do the following:

(1) Use literature abstracting technology.

(2) Use commonly accepted guidance principles of disease management.

(3) Develop therapeutic classifications for the preferred drug list.

(4) Give primary consideration to the clinical efficacy or appropriateness of a particular drug in treating a specific medical condition.

(5) Include in any cost effectiveness considerations the cost implications of other components of the state's Medicaid program and other state funded programs.

(d) Prior authorization is required for coverage under a program described in subsection (a)(11) of a drug that is not included on the preferred drug list.

(e) The board shall determine whether to include a single source covered outpatient drug that is newly approved by the federal Food and Drug Administration on the preferred drug list not later than sixty (60) days after the date on which the manufacturer notifies the board in writing of the drug's approval. However, if the board determines that there is inadequate information about the drug available to the board to make a determination, the board may have an additional sixty (60) days to make a determination from the date that the board receives adequate information to perform the board's review. Prior authorization may not be automatically required for a single source drug that is newly approved by the federal Food and Drug Administration, and that is:

(1) in a therapeutic classification:

(A) that has not been reviewed by the board; and

(B) for which prior authorization is not required; or

(2) the sole drug in a new therapeutic classification that has not been reviewed by the board.

(f) The board may not exclude a drug from the preferred drug list based solely on price.

(g) The following requirements apply to a preferred drug list developed under subsection (a)(11):

(1) Except as provided by IC 12-15-35.5-3(b) and IC 12-15-35.5-3(c), the office or the board may require prior authorization for a drug that is included on the preferred drug list under the following circumstances:

(A) To override a prospective drug utilization review alert.

(B) To permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under IC 16-42-22-10.

(C) To prevent fraud, abuse, waste, overutilization, or inappropriate utilization.

(D) To permit implementation of a disease management program.

(E) To implement other initiatives permitted by state or federal law.

(2) All drugs described in IC 12-15-35.5-3(b) must be included on the preferred drug list.

(3) The office may add a drug that has been approved by the federal Food and Drug Administration to the preferred drug list without prior approval from the board.

(4) The board may add a drug that has been approved by the federal Food and Drug Administration to the preferred drug list.

(h) At least one (1) time each year, the board shall provide a report to the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6. The report must contain the following information:

(1) The cost of administering the preferred drug list.

(2) Any increase in Medicaid physician, laboratory, or hospital costs or in other state funded programs as a result of the preferred drug list.

(3) The impact of the preferred drug list on the ability of a Medicaid recipient to obtain prescription drugs.

(4) The number of times prior authorization was requested, and the number of times prior authorization was:

(A) approved; and

(B) disapproved.

(i) The board shall provide the first report required under subsection (h) not later than six (6) months after the board submits an initial preferred drug list to the office.

As added by P.L.75-1992, SEC.19. Amended by P.L.76-1994, SEC.3; P.L.107-2002, SEC.17; P.L.184-2003, SEC.7; P.L.193-2003, SEC.2; P.L.28-2004, SEC.104; P.L.97-2004, SEC.51; P.L.2-2005, SEC.50; P.L.101-2005, SEC.3; P.L.3-2012, SEC.3; P.L.205-2013, SEC.205; P.L.53-2014, SEC.105.

IC 12-15-35-28.5

Therapeutics committee duties

Sec. 28.5. The therapeutics committee established under section 20.5 of this chapter shall do the following:

(1) Advise and make recommendations to the board in the board's development and maintenance of a preferred drug list under section 28 of this chapter.

(2) Submit to the board a proposed preferred drug list that has been approved by a majority of a quorum of the therapeutics committee.

(3) Advise and make recommendations to the board in the board's review and maintenance of a preferred drug list.

As added by P.L.107-2002, SEC.18.

IC 12-15-35-28.7

Submitting initial preferred drug list; limitations on restrictions; advance notice to providers; implementation; prior authorization

limitation; rules

Sec. 28.7. (a) The board shall submit the initial approved preferred drug list to the office not later than August 1, 2002.

(b) Except as permitted under subsection (g), the office may not further restrict the status of a drug in the Medicaid program or the children's health insurance program until the board reviews a therapeutic classification and the office implements the therapeutic classification on the preferred drug list.

(c) The office shall provide advance notice to providers of the contents of the preferred drug list submitted by the board under subsection (a).

(d) Notwithstanding IC 12-15-13-6, the office shall implement any change in the preferred drug list not later than thirty (30) days after the date the board submits the amended list to the office.

(e) Except as provided by section 28(g)(3) of this chapter, the office may not implement a preferred drug list or an amendment to the preferred drug list that has not been approved by the board.

(f) The office may not require prior authorization for a drug that is excluded from the preferred drug list unless the board has made the determinations required under section 35 of this chapter.

(g) The office may adopt rules under IC 4-22-2 necessary to carry out this chapter.

As added by P.L.107-2002, SEC.19. Amended by P.L.184-2003, SEC.8.

IC 12-15-35-29

Quorum; majority vote on DUR criteria and standards for prescribing

Sec. 29. (a) A quorum consists of six (6) voting members of the board.

(b) DUR criteria and standards for appropriate prescribing may only be implemented with the approval of a majority of the quorum of the board. The majority vote must include at least three (3) of the four (4) physician members of the board and may allow the board to accept deviations from the standards on a case-by-case basis.

As added by P.L.75-1992, SEC.19. Amended by P.L.231-1999, SEC.5.

IC 12-15-35-30

Local practices; monitoring

Sec. 30. The criteria and standards developed under section 28(a)(3) of this chapter for appropriate prescribing that are implemented must reflect the local practices of physicians to monitor the following:

(1) Therapeutic appropriateness.
(2) Overutilization or underutilization.
(3) Therapeutic duplication.
(4) Drug-disease contraindications.
(5) Drug-drug interactions.
(6) Incorrect drug dosage or duration of drug treatment.

(7) Clinical abuse and misuse.

As added by P.L.75-1992, SEC.19. Amended by P.L.3-2008, SEC.95.

IC 12-15-35-31

Intervention; approval; requisites

Sec. 31. (a) An intervention developed under section 28(a)(4) of this chapter that involves a physician must be approved by at least three (3) of the four (4) physician members of the board before implementation.

(b) An intervention that involves a pharmacist must be approved by at least three (3) of the four (4) pharmacist members of the board before implementation.

(c) Interventions include the following:

(1) Information disseminated to physicians and pharmacists to ensure that physicians and pharmacists are aware of the board's duties and powers.

(2) Written, oral, or electronic reminders of recipient-specific or drug-specific information that are designed to ensure recipient, physician, and pharmacist confidentiality, and suggested changes in the prescribing or dispensing practices designed to improve the quality of care.

(3) Use of face-to-face discussions between experts in drug therapy and the prescriber or pharmacist who has been targeted for educational intervention.

(4) Intensified reviews or monitoring of selected prescribers or pharmacists.

(5) The creation of an educational program using data provided through DUR to provide for active and ongoing educational outreach programs to improve prescribing and dispensing practices.

(6) The timely evaluation of interventions to determine if the interventions have improved the quality of care.

(7) The review of case profiles before the conducting of an intervention.

As added by P.L.75-1992, SEC.19. Amended by P.L.3-2008, SEC.96.

IC 12-15-35-32

Repealed

(Repealed by P.L.76-1994, SEC.7.)

IC 12-15-35-32.1

Annual report contents

Sec. 32.1. The annual report under section 28 of this chapter shall include information on the following:

(1) A description of the nature and scope of the prospective drug review program.

(2) A description of how pharmacies performing prospective DUR without computers are expected to comply with the statutory requirement for written criteria.

(3) Detailed information on the specific criteria and standards in

use and any changes in criteria.

(4) A description of the nature and scope of the retrospective DUR program.

(5) A summary of the educational interventions used and an assessment of the effect of these educational interventions on the quality of care.

(6) An estimate of the cost savings generated as a result of the DUR program including savings to the Medicaid drug program attributable to the prospective and retrospective DUR.

(7) An overview of the fiscal impact of the DUR program on other areas of the Medicaid program.

(8) A quantifiable assessment of how DUR has improved quality of care.

(9) A summary of the total number of prescriptions reviewed by drug therapeutic class.

As added by P.L.76-1994, SEC.4.

IC 12-15-35-33
Repealed

(Repealed by P.L.1-1993, SEC.132.)

IC 12-15-35-34
Confidential identifying information; release of cumulative nonidentifying information

Sec. 34. (a) Information that identifies an individual collected under this chapter is confidential and may not be disclosed by the board.

(b) The board may have access to identifying information for purposes of carrying out intervention activities. The identifying information may not be released to anyone other than a member of the board.

(c) The board may release cumulative non-identifying information for purposes of legitimate research.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-35
Prior approval program for outpatient drugs; standards

Sec. 35. (a) Before the board develops a program to place a single source drug on prior approval, restrict the drug in its use, or establish a drug monitoring process or program to measure or restrict utilization of single source drugs other than in the SURS program, the board must meet the following conditions:

(1) Make a determination, after considering evidence and credible information provided to the board by the office and the public, that placing a single source drug on prior approval or restricting the drug's use will not:

(A) impede the quality of patient care in the Medicaid program; or

(B) increase costs in other parts of the Medicaid program, including hospital costs and physician costs.

(2) Meet to review a formulary or a restriction on a single source drug after the office provides at least fifteen (15) days notification to the public that the board will review the formulary or restriction on a single source drug at a particular board meeting. The notification shall contain the following information:

(A) A statement of the date, time, and place at which the board meeting will be convened.

(B) A general description of the subject matter of the board meeting.

(C) An explanation of how a copy of the formulary to be discussed at the meeting may be obtained.

The board shall meet to review the formulary or the restriction on a single source drug at least fifteen (15) days but not more than sixty (60) days after the notification.

(3) Ensure that:

(A) there is access to at least two (2) alternative drugs within each therapeutic classification, if available, on the formulary; and

(B) a process is in place through which a Medicaid recipient has access to medically necessary drugs.

(4) Reconsider the drug's removal from its restricted status or from prior approval not later than six (6) months after the single source drug is placed on prior approval or restricted in its use.

(5) Ensure that the program provides either telephone or FAX approval or denial Monday through Friday, twenty-four (24) hours a day. The office must provide the approval or denial within twenty-four (24) hours after receipt of a prior approval request. The program must provide for the dispensing of at least a seventy-two (72) hour supply of the drug in an emergency situation or on weekends.

(6) Ensure that any prior approval program or restriction on the use of a single source drug is not applied to prevent acceptable medical use for appropriate off-label indications.

(b) The board shall advise the office on the implementation of any program to restrict the use of brand name multisource drugs.

(c) The board shall consider:

(1) health economic data;

(2) cost data; and

(3) the use of formularies in the non-Medicaid markets;

in developing its recommendations to the office.

As added by P.L.75-1992, SEC.19. Amended by P.L.76-1994, SEC.5; P.L.231-1999, SEC.6; P.L.6-2002, SEC.3; P.L.107-2002, SEC.20; P.L.1-2003, SEC.58.

IC 12-15-35-36

Advisory committees

Sec. 36. The board may establish advisory committees to assist the board in carrying out the board's duties under this chapter.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-37
Medicaid state plan; inclusion of retrospective and prospective DUR program

Sec. 37. The board shall, in cooperation with the secretary, include in the Medicaid state plan the creation and implementation of a retrospective and prospective DUR program for Medicaid outpatient drugs to ensure that the prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes.
As added by P.L.75-1992, SEC.19.

IC 12-15-35-38
DUR program guidelines and procedures

Sec. 38. The retrospective and prospective DUR program shall be operated under the guidelines and procedures established by the board under section 29 of this chapter.
As added by P.L.75-1992, SEC.19.

IC 12-15-35-39
Retrospective DUR requisites

Sec. 39. Retrospective DUR must:
(1) be based on the guidelines established by the board; and
(2) use the mechanized drug claims processing and information retrieval system to analyze claims data to do the following:
(A) Identify patterns of fraud, abuse, gross overuse, and inappropriate or medically unnecessary care.
(B) Assess data on drug use against explicit predetermined standards that are based on the compendia and other sources to monitor the following:
(i) Therapeutic appropriateness.
(ii) Overutilization or underutilization.
(iii) Therapeutic duplication.
(iv) Drug-disease contraindications.
(v) Drug-drug interactions.
(vi) Incorrect drug dosage or duration of drug treatment.
(vii) Clinical abuse and misuse.
As added by P.L.75-1992, SEC.19.

IC 12-15-35-40
Prospective DUR requisites

Sec. 40. Prospective DUR must be based on the guidelines established by the board and must provide that prior to the prescription being filled or delivered a review will be conducted by the pharmacist at the point of sale to screen for potential drug therapy problems resulting from the following:
(1) Therapeutic duplication.
(2) Drug-drug interactions.
(3) Incorrect dosage and duration of treatment.
(4) Drug-allergy interactions.
(5) Clinical abuse and misuse.
As added by P.L.75-1992, SEC.19.

IC 12-15-35-41
Board activities under IC 34-30-15

Sec. 41. The activities of the board in carrying out this chapter are covered under IC 34-30-15.

As added by P.L.75-1992, SEC.19. Amended by P.L.1-1998, SEC.103.

IC 12-15-35-42
Meetings

Sec. 42. (a) The board may meet in an executive session for purposes of reviewing DUR data or to conduct or to discuss activity as provided for in IC 5-14-1.5-6.1.

(b) The board shall also conduct regular public meetings to gather input from the public on the operation of the DUR program.

(c) The board shall meet monthly to implement its duties under this chapter.

As added by P.L.75-1992, SEC.19. Amended by P.L.291-2001, SEC.163.

IC 12-15-35-43
Confidentiality; pharmacist data and information

Sec. 43. Confidential data or information obtained by pharmacists as part of prospective DUR are confidential but may be released to prescribers or others according to procedures established by the board.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-43.5
Prohibiting the release of proprietary or confidential information obtained under certain circumstances

Sec. 43.5. (a) The board, the therapeutics committee, or the office may not release proprietary or confidential information obtained as part of the development, implementation, or maintenance of a preferred drug list under this chapter.

(b) Information described in subsection (a) is confidential for purposes of IC 5-14-3-4(a)(1).

As added by P.L.107-2002, SEC.21. Amended by P.L.184-2003, SEC.9.

IC 12-15-35-44
Confidentiality; violations; penalty

Sec. 44. A person who does not comply with the confidentiality provisions under section 34 of this chapter commits a Class A misdemeanor.

As added by P.L.75-1992, SEC.19. Amended by P.L.1-1993, SEC.133.

IC 12-15-35-45
Outpatient drug formulary; requirements

Sec. 45. (a) The chairman of the board, subject to the approval of

the board members, may appoint an advisory committee to make recommendations to the board on the development of a Medicaid outpatient drug formulary.

(b) If the office decides to establish a Medicaid outpatient drug formulary, the formulary shall be developed by the board.

(c) A formulary, preferred drug list, or prescription drug benefit used by a Medicaid managed care organization is subject to IC 12-15-5-5, IC 12-15-35.5, and sections 46 and 47 of this chapter.
As added by P.L.76-1994, SEC.6. Amended by P.L.231-1999, SEC.7; P.L.101-2005, SEC.4.

IC 12-15-35-46
Review of proposed formulary

Sec. 46. (a) This section applies to a managed care organization that enters into an initial contract with the office to be a Medicaid managed care organization after May 13, 1999.

(b) Before a Medicaid managed care organization described in subsection (a) implements a formulary, the managed care organization shall submit the formulary to the office at least thirty-five (35) days before the date that the managed care organization implements the formulary for Medicaid recipients.

(c) The office shall forward the formulary to the board for the board's review and recommendation.

(d) The office shall provide at least thirty (30) days notification to the public that the board will review a Medicaid managed care organization's proposed formulary at a particular board meeting. The notification shall contain the following information:

(1) A statement of the date, time, and place at which the board meeting will be convened.

(2) A general description of the subject matter of the board meeting.

(3) An explanation of how a copy of the formulary to be discussed may be obtained.

The board shall meet to review the formulary at least thirty (30) days but not more than sixty (60) days after the notification.

(e) In reviewing the formulary, the board shall do the following:

(1) Make a determination, after considering evidence and credible information provided to the board by the office and the public, that the use of the formulary will not:

(A) impede the quality of patient care in the Medicaid program; or

(B) increase costs in other parts of the Medicaid program, including hospital costs and physician costs.

(2) Make a determination that:

(A) there is access to at least two (2) alternative drugs within each therapeutic classification, if available, on the formulary;

(B) a process is in place through which a Medicaid member has access to medically necessary drugs; and

(C) the managed care organization otherwise meets the requirements of IC 27-13-38.

(f) The board shall consider:

(1) health economic data;

(2) cost data; and

(3) the use of formularies in the non-Medicaid markets;

in developing its recommendation to the office.

(g) Within thirty (30) days after the board meeting, the board shall make a recommendation to the office regarding whether the proposed formulary should be approved, disapproved, or modified.

(h) The office shall rely significantly on the clinical expertise of the board. If the office does not agree with the recommendations of the board, the office shall, at a public meeting, discuss the disagreement with the board and present any additional information to the board for the board's consideration. The board's consideration of additional information must be conducted at a public meeting.

(i) Based on the final recommendations of the board, the office shall approve, disapprove, or require modifications to the Medicaid managed care organization's proposed formulary. The office shall notify the managed care organization of the office's decision within fifteen (15) days of receiving the board's final recommendation.

(j) The managed care organization must comply with the office's decision within sixty (60) days after receiving notice of the office's decision.

(k) Notwithstanding the other provisions of this section, the office may temporarily approve a Medicaid managed care organization's proposed formulary pending a final recommendation from the board.

As added by P.L.231-1999, SEC.8.

IC 12-15-35-47

Review of changes to formulary

Sec. 47. (a) This section applies to the following changes to a formulary used by a Medicaid managed care organization for Medicaid recipients:

(1) Removing one (1) or more drugs from the formulary.

(2) Placing new restrictions on one (1) or more drugs on the formulary.

(b) Before a Medicaid managed care organization makes a change described in subsection (a), the managed care organization shall submit the proposed change to the office.

(c) The office shall forward the proposed change to the board for the board's review and recommendation.

(d) The office shall provide at least thirty (30) days notification to the public that the board will:

(1) review the proposed change; and

(2) consider evidence and credible information provided to the board;

at the board's regular board meeting before making a recommendation to the office regarding whether the proposed change should be approved or disapproved.

(e) Based on the final recommendation of the board, the office may approve or disapprove the proposed change. If a proposed

change is not disapproved within ninety (90) days after the date the managed care organization submits the proposed change to the office, the managed care organization may implement the change to the formulary.

(f) A Medicaid managed care organization:

(1) may add a drug to the managed care organization's formulary without the approval of the office; and

(2) shall notify the office of any addition to the managed care organization's formulary within thirty (30) days after making the addition.

As added by P.L.231-1999, SEC.9.

IC 12-15-35-48

Board's review of a managed care organization's prescription drug program; report

Sec. 48. (a) The board shall review the prescription drug program of a managed care organization that participates in the state's risk-based managed care program at least one (1) time per year. The board's review of a prescription drug program must include the following:

(1) An analysis of the single source drugs requiring prior authorization, including the number of drugs requiring prior authorization in comparison to other managed care organizations' prescription drug programs that participate in the state's Medicaid program.

(2) A determination and analysis of the number and the type of drugs subject to a restriction.

(3) A review of the rationale for:

(A) the prior authorization of a drug described in subdivision (1); and

(B) a restriction on a drug.

(4) A review of the number of requests a managed care organization received for prior authorization, including the number of times prior authorization was approved and the number of times prior authorization was disapproved.

(5) A review of:

(A) patient and provider satisfaction survey reports; and

(B) pharmacy-related grievance data for a twelve (12) month period.

(b) A managed care organization described in subsection (a) shall provide the board with the information necessary for the board to conduct its review under subsection (a).

(c) The board shall report to the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6 at least one (1) time per year on the board's review under subsection (a).

As added by P.L.107-2002, SEC.22. Amended by P.L.205-2013, SEC.206; P.L.53-2014, SEC.106.

IC 12-15-35-49

Information provided by office

Sec. 49. (a) The office shall provide the board with information necessary for the board to carry out its duties under this chapter.

(b) The office shall provide the information required under subsection (a):

(1) when requested by the board; and

(2) in a timely manner.

As added by P.L.291-2001, SEC.164.

IC 12-15-35-50

Maximum allowable cost schedule for drugs; pharmacy participation in Medicaid program

Sec. 50. (a) IC 12-15-13-6 does not apply to this section.

(b) The office shall maintain an Internet web site and post on the web site any changes concerning the office's maximum allowable cost schedule for drugs.

(c) A change in the office's maximum allowable cost schedule for drugs may not take effect less than thirty (30) days after the change is posted on the office's Internet web site.

(d) The office is not required to mail a notice to providers concerning a change in the office's maximum allowable cost schedule for drugs.

(e) A pharmacy may determine not to participate in the Medicaid program because of a change to the office's maximum allowable cost schedule for drugs if the pharmacy notifies the office not less than thirty (30) days after the changes take effect.

As added by P.L.187-2007, SEC.8.

IC 12-15-35-51 Version a

Establishment of mental health Medicaid quality advisory committee; members; reimbursement; duties

Note: This version of section effective until 3-24-2014. See also following version of this section, effective 3-24-2014.

Sec. 51. (a) As used in this section, "advisory committee" refers to the mental health Medicaid quality advisory committee established by subsection (b).

(b) The mental health Medicaid quality advisory committee is established. The advisory committee consists of the following members:

(1) The director of the office or the director's designee, who shall serve as chairperson of the advisory committee.

(2) The director of the division of mental health and addiction or the director's designee.

(3) A representative of a statewide mental health advocacy organization.

(4) A representative of a statewide mental health provider organization.

(5) A representative from a managed care organization that participates in the state's Medicaid program.

(6) A member with expertise in psychiatric research

representing an academic institution.

(7) A pharmacist licensed under IC 25-26.

(8) The commissioner of the department of correction or the commissioner's designee.

The governor shall make the appointments for a term of four (4) years under subdivisions (3) through (7) and fill any vacancy on the advisory committee.

(c) The office shall staff the advisory committee. The expenses of the advisory committee shall be paid by the office.

(d) Each member of the advisory committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) Each member of the advisory committee who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(f) The affirmative votes of a majority of the voting members appointed to the advisory committee are required by the advisory committee to take action on any measure.

(g) The advisory committee shall advise the office and make recommendations concerning the clinical use of mental health and addiction medications, including the implementation of IC 12-15-35.5-7(c), and consider the following:

(1) Peer reviewed medical literature.

(2) Observational studies.

(3) Health economic studies.

(4) Input from physicians and patients.

(5) Any other information determined by the advisory committee to be appropriate.

(h) The office shall report recommendations made by the advisory committee to the drug utilization review board established by section 19 of this chapter.

(i) The office shall report the following information to the health finance commission established by IC 2-5-23-3:

(1) The advisory committee's advice and recommendations made under this section.

(2) The number of restrictions implemented under IC 12-15-35.5-7(c) and the outcome of each restriction.

(3) The transition of individuals who are aged, blind, or disabled to the risk based managed care program.

(4) Any decision by the office to change the health care delivery system in which Medicaid is provided to recipients.

As added by P.L.36-2009, SEC.2. Amended by P.L.185-2013, SEC.1; P.L.205-2013, SEC.207; P.L.2-2014, SEC.65.

IC 12-15-35-51 Version b
Advisory committee; duties; report

Note: This version of section effective 3-24-2014. See also preceding version of this section, effective until 3-24-2014.

Sec. 51. (a) As used in this section, "advisory committee" refers to the mental health Medicaid quality advisory committee established by subsection (b).

(b) The mental health Medicaid quality advisory committee is established. The advisory committee consists of the following members:

(1) The director of the office or the director's designee, who shall serve as chairperson of the advisory committee.

(2) The director of the division of mental health and addiction or the director's designee.

(3) A representative of a statewide mental health advocacy organization.

(4) A representative of a statewide mental health provider organization.

(5) A representative from a managed care organization that participates in the state's Medicaid program.

(6) A member with expertise in psychiatric research representing an academic institution.

(7) A pharmacist licensed under IC 25-26.

(8) The commissioner of the department of correction or the commissioner's designee.

The governor shall make the appointments for a term of four (4) years under subdivisions (3) through (7) and fill any vacancy on the advisory committee.

(c) The office shall staff the advisory committee. The expenses of the advisory committee shall be paid by the office.

(d) Each member of the advisory committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) Each member of the advisory committee who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(f) The affirmative votes of a majority of the voting members appointed to the advisory committee are required by the advisory committee to take action on any measure.

(g) The advisory committee shall advise the office and make recommendations concerning the clinical use of mental health and addiction medications, including the implementation of IC 12-15-35.5-7(c), and consider the following:

(1) Peer reviewed medical literature.

(2) Observational studies.

(3) Health economic studies.

(4) Input from physicians and patients.

(5) Any other information determined by the advisory committee to be appropriate.

(h) The office shall report recommendations made by the advisory committee to the drug utilization review board established by section 19 of this chapter.

(i) The office shall report the following information to the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6:

(1) The advisory committee's advice and recommendations made under this section.

(2) The number of restrictions implemented under IC 12-15-35.5-7(c) and the outcome of each restriction.

(3) The transition of individuals who are aged, blind, or disabled to the risk based managed care program.

(4) Any decision by the office to change the health care delivery system in which Medicaid is provided to recipients.

As added by P.L.36-2009, SEC.2. Amended by P.L.185-2013, SEC.1; P.L.205-2013, SEC.207; P.L.2-2014, SEC.65; P.L.53-2014, SEC.107.

IC 12-15-35.5
Chapter 35.5. Prescription Drugs

IC 12-15-35.5-1
Applicability
Sec. 1. This chapter applies to:
(1) the Medicaid program under this article; and
(2) the children's health insurance program under IC 12-17.6.
As added by P.L.6-2002, SEC.4. Amended by P.L.101-2005, SEC.5.

IC 12-15-35.5-2
"Cross-indicated drug" defined
Sec. 2. As used in this chapter, "cross-indicated drug" means a drug that is used for a purpose generally held to be reasonable, appropriate, and within the community standards of practice even though the use is not included in the federal Food and Drug Administration's approved labeled indications for the drug.
As added by P.L.6-2002, SEC.4.

IC 12-15-35.5-2.5
"Unrestricted access" defined
Sec. 2.5. As used in this chapter, "unrestricted access" means the ability of a recipient to obtain a prescribed drug without being subject to limits or preferences imposed by the office or the board for the purpose of cost savings except as provided under section 7 of this chapter.
As added by P.L.107-2002, SEC.23. Amended by P.L.184-2003, SEC.10.

IC 12-15-35.5-2.6
"Waste"
Sec. 2.6. As used in this chapter, "waste" means inappropriate:
(1) overprescribing;
(2) underprescribing;
(3) overutilization;
(4) underutilization;
(5) recipient noncompliance with the prescribed regimen; or
(6) clinically unjustified utilization;
of a prescription drug.
As added by P.L.11-2010, SEC.2.

IC 12-15-35.5-3
Prohibition on prior authorization of mental health drugs; exception
Sec. 3. (a) Except as provided in subsection (b), the office may establish prior authorization requirements for drugs covered under a program described in section 1 of this chapter.
(b) With the exception of prior authorization for "brand medically necessary" of a brand name drug with a generic equivalent in accordance with IC 16-42-22-10, the office may not require prior

authorization for the following single source or brand name multisource drugs:

(1) A drug that is classified as an antianxiety, antidepressant, or antipsychotic central nervous system drug in the most recent publication of Drug Facts and Comparisons (published by the Facts and Comparisons Division of J.B. Lippincott Company).

(2) A drug that, according to:

(A) the American Psychiatric Press Textbook of Psychopharmacy;

(B) Current Clinical Strategies for Psychiatry;

(C) Drug Facts and Comparisons; or

(D) a publication with a focus and content similar to the publications described in clauses (A) through (C);

is a cross-indicated drug for a central nervous system drug classification described in subdivision (1).

(3) A drug that is:

(A) classified in a central nervous system drug category or classification (according to Drug Facts and Comparisons) that is created after March 12, 2002; and

(B) prescribed for the treatment of a mental illness (as defined in the most recent publication of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders).

(c) Except as provided under section 7 of this chapter, a recipient enrolled in a program described in section 1 of this chapter shall have unrestricted access to a drug described in subsection (b).

As added by P.L.6-2002, SEC.4. Amended by P.L.101-2005, SEC.6; P.L.1-2009, SEC.104; P.L.229-2011, SEC.143.

IC 12-15-35.5-4

Prior authorization requirement parameters

Sec. 4. Prior authorization requirements developed under this chapter must:

(1) comply with all applicable state and federal laws, including the provisions of 405 IAC 5-3 and 42 U.S.C. 1396r-8(d)(5); and

(2) provide that the prior authorization number assigned to an approved request be included on the prescription or drug order:

(A) issued by the prescribing practitioner; or

(B) if the prescription is transmitted orally, relayed to the dispensing pharmacist by the prescribing practitioner.

As added by P.L.6-2002, SEC.4. Amended by P.L.107-2002, SEC.24.

IC 12-15-35.5-5

Prior authorization procedures

Sec. 5. Before requiring prior authorization for a single source drug, the office shall seek the advice of the drug utilization review board, established by IC 12-15-35-19, at a public meeting of the board.

As added by P.L.6-2002, SEC.4.

IC 12-15-35.5-6
Publication of prior authorization decision

Sec. 6. (a) The office shall publish the decision to require prior authorization for a single source drug in a provider bulletin.

(b) IC 12-15-13-6 applies to a provider bulletin described in subsection (a).

As added by P.L.6-2002, SEC.4.

IC 12-15-35.5-7
Limitations on drug refills; limitations on restrictions on certain mental health drugs

Sec. 7. (a) Subject to subsections (b) and (c), the office may place limits on quantities dispensed or the frequency of refills for any covered drug as required by law or for the purpose of:

(1) preventing fraud, abuse, or waste;

(2) preventing overutilization, inappropriate utilization, or inappropriate prescription practices that are contrary to:

(A) clinical quality and patient safety; and

(B) accepted clinical practice for the diagnosis and treatment of mental illness and the considerations specified in subsection (h); or

(3) implementing a disease management program.

(b) Before implementing a limit described in subsection (a), the office shall:

(1) consider quality of care and the best interests of Medicaid recipients;

(2) seek the advice of the drug utilization review board, established by IC 12-15-35-19, at a public meeting of the board; and

(3) publish a provider bulletin that complies with the requirements of IC 12-15-13-6.

(c) Subject to subsection (d), the board may establish and the office may implement a restriction on a drug described in section 3(b) of this chapter if:

(1) the board determines that data provided by the office indicates that a situation described in IC 12-15-35-28(a)(8)(A) through IC 12-15-35-28(a)(8)(K) requires an intervention to:

(A) prevent fraud, abuse, or waste;

(B) prevent overutilization, inappropriate utilization, or inappropriate prescription practices that are contrary to:

(i) clinical quality and patient safety; and

(ii) accepted clinical practice for the diagnosis and treatment of mental illness; or

(C) implement a disease management program; and

(2) the board approves and the office implements an educational intervention program for providers to address the situation.

(d) A restriction established under subsection (c) for any drug described in section 3(b) of this chapter:

(1) must comply with the procedures described in IC 12-15-35-35;

(2) may include requiring a recipient to be assigned to one (1) practitioner and one (1) pharmacy provider for purposes of receiving mental health medications;

(3) may not lessen the quality of care; and

(4) must be in the best interest of Medicaid recipients.

(e) Implementation of a restriction established under subsection (c) must provide for the dispensing of a temporary supply of the drug for a prescription not to exceed seven (7) business days, if additional time is required to review the request for override of the restriction. This subsection does not apply if the federal Food and Drug Administration has issued a boxed warning under 21 CFR 201.57(e) that applies to the drug and is applicable to the patient.

(f) Before implementing a restriction established under subsection (c), the office shall:

(1) seek the advice of the mental health Medicaid quality advisory committee established by IC 12-15-35-51; and

(2) publish a provider bulletin that complies with the requirements of IC 12-15-13-6.

(g) Subsections (c) through (f):

(1) apply only to drugs described in section 3(b) of this chapter; and

(2) do not apply to a restriction on a drug described in section 3(b) of this chapter that was approved by the board and implemented by the office before April 1, 2003.

(h) Restrictions referred to in subsection (c) to prevent overutilization, inappropriate utilization, or inappropriate prescription practices that are contrary to accepted clinical practices may include the implementation of the following:

(1) Encouraging dosages that enhance recipient adherence to a drug regimen.

(2) Encouraging monotherapy with limitations on the number of drugs from a specific drug class that a recipient may be taking at any one (1) time when there is no documentation of the severity and intensity of the target symptoms.

(3) Limiting the total number of scheduled psychiatric medications that a recipient may be taking at any one (1) time, when such limit is based on:

(A) established best practices; or

(B) guidelines implemented by the division of mental health and addiction for mental health state operated facilities.

(4) Encouraging, in accordance with IC 16-42-22-10, generic substitution when such a substitution would result in a net cost savings to the Medicaid program.

(i) Restrictions under subsection (h) may be overridden through the prior authorization review process in cases in which the prescriber demonstrates medical necessity for the prescribed medication.

As added by P.L.6-2002, SEC.4. Amended by P.L.184-2003, SEC.11; P.L.101-2005, SEC.7; P.L.8-2007, SEC.1; P.L.36-2009, SEC.3; P.L.229-2011, SEC.145.

IC 12-15-35.5-8

Restriction of mental health drugs for individuals less than 18 years of age

Sec. 8. In addition to the limits described in section 7 of this chapter, the office may restrict a mental health drug described in section 3 of this chapter that is prescribed for an individual who is less than eighteen (18) years of age if federal financial participation is not available for reimbursement for the prescription under IC 12-15-5-2.

As added by P.L.11-2010, SEC.3.

IC 12-15-36

Chapter 36. Payments for Special Services

IC 12-15-36-1

Application of chapter

Sec. 1. This chapter applies to a health facility licensed under IC 16-28 that has been approved by the office to have more than eight (8) beds but less than forty (40) beds approved for special skilled services.

As added by P.L.76-1992, SEC.3. Amended by P.L.2-1993, SEC.103.

IC 12-15-36-2

"Chronically medically dependent" defined

Sec. 2. As used in this chapter, "chronically medically dependent" means a medical condition of a person who is infected by the human immunodeficiency virus (HIV) and has been certified by a physician as, because of the HIV infection, requiring a skilled or intermediate level of care.

As added by P.L.76-1992, SEC.3.

IC 12-15-36-3

"Special skilled services" defined

Sec. 3. As used in this chapter, "special skilled services" refers to medical and health services that are provided to a patient who is:

(1) chronically medically dependent; and

(2) in need of a level of care that is less intensive than the care provided in a hospital licensed under IC 16-21.

As added by P.L.76-1992, SEC.3. Amended by P.L.2-1993, SEC.104.

IC 12-15-36-4

Payment rate; establishment under federal law

Sec. 4. The office shall, under 42 U.S.C. 1396 et seq., establish a payment rate to a health facility for special skilled services.

As added by P.L.76-1992, SEC.3.

IC 12-15-36-5

Payment standards; costs included

Sec. 5. Payment for special skilled services provided in a health facility must meet the following conditions:

(1) Be determined in accordance with a prospective payment rate that is reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities to provide care and services in conformity with applicable state and federal laws, rules, regulations, and quality and safety standards.

(2) Include the increased costs for respiratory therapy, intensive case management, social services, physician and nursing care, linens, and dietary supplements.

As added by P.L.76-1992, SEC.3.

IC 12-15-36-6
Implementation of chapter

Sec. 6. The office shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.76-1992, SEC.3.

IC 12-15-36-7
Approval of more than 100 beds; necessity of agreement

Sec. 7. The office of Medicaid policy and planning may not approve more than one hundred (100) beds for special skilled services under this chapter without the agreement of the commissioner of the state department of health and the administrator of the office of Medicaid policy and planning.

As added by P.L.76-1992, SEC.3.

IC 12-15-37

Chapter 37. Medicaid Demonstration Projects

IC 12-15-37-1

Review of Medicaid recipient populations

Sec. 1. The state department of health, with guidance and input from the office, shall review Medicaid recipient populations to determine which populations might benefit from transfer to an insurance product. Populations to review include participants in:

(1) the IMPACT program; and

(2) certain geographic populations, including rural populations;

to determine the fiscal and other effects of a demonstration project established for the benefit of these recipients.

As added by P.L.93-1995, SEC.4.

IC 12-15-37-2

Waivers from Department of Health and Human Services; eligible projects

Sec. 2. After completing the review under section 1 of this chapter, the office, under the guidance of the state department of health, may seek waivers from the United States Department of Health and Human Services to establish one (1) or more of the following demonstration projects, the goal of each of which is to provide a more cost effective means of providing health care coverage for certain Medicaid eligible individuals:

(1) Enrolling the designated recipients in prepaid health care delivery plans.

(2) Establishing medical savings accounts for designated recipients.

(3) Purchasing a private insurance product for designated recipients.

(4) Notwithstanding IC 12-15-5, redesigning the package of Medicaid benefits and services offered to designated recipients. Any package offered to designated recipients under this subdivision must include those services that may be provided within the scope of a provider's license if the service is covered under IC 12-15-12.

(5) Integrating the designated recipients into an already established risk pool.

As added by P.L.93-1995, SEC.4.

IC 12-15-37-3

Affidavit

Sec. 3. The state department of health and the office may not implement any of the demonstration projects under section 2 of this chapter until the office, under the guidance of the state department of health, files an affidavit with the governor that attests that the federal waivers applied for under section 2 of this chapter are in effect. The state department of health and the office shall file the affidavit under this section not later than five (5) days after the state department of

health or the office are notified that the waiver is approved.
As added by P.L.93-1995, SEC.4.

IC 12-15-37-4
Time limit for implementation

Sec. 4. If a waiver is received from the United States Department of Health and Human Services and the governor receives the affidavit filed under section 3 of this chapter, the state department of health, with guidance and input from the office, shall implement the demonstration project for which the waiver was granted not more than ninety (90) days after the governor receives the affidavit.
As added by P.L.93-1995, SEC.4.

IC 12-15-37-5
Rules for implementation

Sec. 5. The state department of health, with guidance and input from the office, shall adopt rules under IC 4-22-2 to implement a demonstration project for which a waiver is granted under this chapter.
As added by P.L.93-1995, SEC.4.

IC 12-15-37-6
Waiver restrictions

Sec. 6. If the state department of health and the office seek a waiver under this chapter to establish a managed care program or other demonstration project, the state department of health and the office shall not seek a waiver of:

(1) federally qualified health centers and rural health clinic services as mandatory Medicaid services under:
  (A) 42 U.S.C. 1396a(10)(A);
  (B) 42 U.S.C. 1396d(a)(2)(B); and
  (C) 42 U.S.C. 1396d(a)(2)(C); or

(2) reasonable cost reimbursement for federally qualified health centers and rural health clinics under 42 U.S.C. 1396a(a)(13)(C).

As added by P.L.93-1995, SEC.4. Amended by P.L.14-2000, SEC.30.

IC 12-15-37-7
Stroke prevention and treatment programs

Sec. 7. The office and the state department of health may collaborate with the American Heart Association to reduce the cost of stroke treatment and improve the outcome of stroke patients in the state. The collaboration may include the following:

(1) The development and implementation of a comprehensive statewide public education program on stroke prevention that is targeted at high-risk populations and at geographical areas that have a high incidence of stroke.

(2) The recommendation and dissemination of guidelines on the treatment of stroke patients, including emergency stroke care.

(3) The development of a program that would ensure that the

public and health care providers are informed concerning the most effective stroke prevention strategies.

(4) The dissemination of information concerning public and private grant opportunities available for hospitals and providers of emergency medical services for the purposes of improving stroke patient care.

As added by P.L.224-2003, SEC.82.

IC 12-15-38

Chapter 38. Examination of Funds

IC 12-15-38-1

Restrictions on examination of availability of Medicaid funds for ineligible individuals

Sec. 1. (a) The state department of health, with guidance and input from the office, shall examine and study the availability of funds that require a waiver and funds that do not require a waiver from the United States Secretary of Health and Human Services that may be:

(1) used to fund a demonstration project to provide health care to individuals who do not qualify for coverage under IC 12-15-2 on July 1, 1995; and

(2) eligible for federal financial participation, other matching funds from the federal government, or grants from the federal government.

(b) The examination of funds under this section is restricted to funding sources not used in the Medicaid program on June 30, 1995, and may not include funds authorized for planning and starting nonprofit community based primary health care centers.

As added by P.L.93-1995, SEC.5. Amended by P.L.2-1996, SEC.245.

IC 12-15-38-2

Use of Medicaid funds for development of health care plan and delivery system

Sec. 2. If the state department of health, with guidance and input from the office, identifies funds under section 1 of this chapter, the state department of health may develop a health care plan and delivery system that uses the funds under the Medicaid program to provide health insurance for individuals who would not qualify for coverage under IC 12-15-2. The plan may include providing insurance through the private health insurance system.

As added by P.L.93-1995, SEC.5.

IC 12-15-38-3

Authority to apply for waiver

Sec. 3. If the state department of health and the office develop a plan that requires a waiver from federal Medicaid law, the office may apply for the necessary waiver from the appropriate authority to implement the program under section 2 of this chapter.

As added by P.L.93-1995, SEC.5.

IC 12-15-38-4

Reports

Sec. 4. Before July 1, 1996, the state department of health and the office shall submit a report to the general assembly summarizing the study conducted under section 1 of this chapter and any health care plans developed under section 2 of this chapter.

As added by P.L.93-1995, SEC.5.

IC 12-15-38-5

Interagency agreement permitted for state department of health to act in accordance with federal requirements

Sec. 5. The state department of health and the office shall enter into an interagency agreement to allow the state department of health to carry out the department's responsibilities under this chapter in accordance with federal requirements.

As added by P.L.93-1995, SEC.5.

IC 12-15-39

Chapter 39. Intermediate Care Facilities for the Mentally Retarded Medicaid Waiver Expansion

IC 12-15-39-1

"Conversion" defined

Sec. 1. As used in this section, "conversion" means:

(1) the permanent closure of a Medicaid funded intermediate care facility for the mentally retarded bed, including intermediate care facilities for the mentally retarded licensed under IC 16-28-2, facilities licensed under IC 12-28-5 and certified under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) as an intermediate care facility for the mentally retarded, and state institutions; and

(2) the use of the state funds that paid the state share of Medicaid funding for the beds described in subdivision (1) to fund the expansion of the number of individuals receiving waiver services under an intermediate care facility for the mentally retarded Medicaid waiver.

As added by P.L.112-1997, SEC.4.

IC 12-15-39-2

Duties of division

Sec. 2. The division shall do the following:

(1) Assist providers who provide for the voluntary conversion of Medicaid funded intermediate care facility for the mentally retarded beds.

(2) Assist in securing appropriate placements for individuals who reside in the intermediate care facility for the mentally retarded beds that are converted. However, an individual may not be moved from an intermediate care facility for the mentally retarded bed until an appropriate alternative placement is available.

As added by P.L.112-1997, SEC.4.

IC 12-15-39-3

Use of savings from conversion to expand waiver services

Sec. 3. Any savings that may result from a conversion under this chapter of an intermediate care facility for the mentally retarded licensed under IC 16-28-2 or a state institution must be used to expand waiver services under an intermediate care facility for the mentally retarded Medicaid waiver to individuals throughout Indiana.

As added by P.L.112-1997, SEC.4.

IC 12-15-39.6

Chapter 39.6. Long Term Care Program

IC 12-15-39.6-1

"Long term care" defined

Sec. 1. As used in this chapter, "long term care" means the provision of the following services in a setting other than an acute care wing of a hospital to enable individuals whose functional capacities are chronically impaired to be maintained at their maximum level of health and well-being:

(1) Physician's services.

(2) Nursing services.

(3) Diagnostic services.

(4) Therapeutic services, including physical therapy, speech therapy, and occupational therapy.

(5) Rehabilitative services.

(6) Maintenance services.

(7) Personal care services, including companion services and assistance in bathing, dressing, and other skills of daily living.

(8) Transportation services.

(9) Day care services.

(10) Home health care services.

(11) Respite care services.

(12) Services provided in a facility licensed under IC 16-28.

(13) Services provided by chiropractors, podiatrists, and optometrists.

As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-2

"Long term care facility" defined

Sec. 2. As used in this chapter, "long term care facility" means a facility licensed under IC 16-28.

As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-3

"Long term care insurance" defined

Sec. 3. (a) As used in this chapter, "long term care insurance" means insurance coverage for at least twelve (12) consecutive months for each covered person on an expense incurred, indemnity, or prepaid basis for one (1) or more necessary long term care services provided in a setting other than an acute care wing of a hospital.

(b) The term does not include payment:

(1) of coinsurance, deductibles, or premiums for other insurance policies;

(2) for services covered by other insurance policies; or

(3) for services covered by Parts A and B of the Medicare program (42 U.S.C. 1395 et seq.).

As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-4

"Health maintenance organization" defined

Sec. 4. As used in this chapter, "health maintenance organization" has the meaning set forth in IC 27-13-1-19.

As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-5

"Qualified long term care policy" defined

Sec. 5. As used in this chapter, "qualified long term care policy" means an insurance policy that:

(1) provides long term care insurance;

(2) meets:

(A) the definition set forth in IC 27-8-12-5; and

(B) the standards established under IC 27-8-12-7.1; and

(3) is issued by an insurer or other person who complies with section 9(a) of this chapter.

As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-6

Establishment and administration of program

Sec. 6. (a) The Indiana long term care program is established to do the following:

(1) Provide incentives for individuals to insure against the costs of providing for their long term care needs.

(2) Provide a mechanism for individuals to qualify for coverage of the costs of their long term care needs under the Medicaid program without first being required to substantially exhaust all their resources.

(3) Assist in developing methods for increasing access to and the affordability of a long term care policy.

(4) Provide counseling services to individuals in planning for their long term care needs.

(5) Alleviate the financial burden on the state's medical assistance program by encouraging the pursuit of private initiatives.

(b) The office of Medicaid policy and planning and the department of insurance shall administer the program. The department of insurance may contract with a local office of aging services, an area agency on aging, or other nonprofit organization to provide counseling services under the program. The department of insurance shall develop and coordinate a plan to provide counseling services under the program.

As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-7

Information on program; availability; assistance

Sec. 7. (a) The department of insurance or the agency with which the department of insurance has contracted under section 6(b) of this chapter shall make available to any individual interested in participating in the Indiana long term care program information concerning the following:

(1) The Indiana long term care program.
(2) Long term care insurance policies.
(3) Medicare supplement insurance policies.
(4) Parts A and B of the Medicare program (42 U.S.C. 1395 et seq.).
(5) Health maintenance organizations under IC 27-13 that are contracted with the Medicare program.
(6) The Medicaid program.

(b) If an individual elects to pursue any of the options under subsection (a), the department of insurance shall assist the individual in doing so.

As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-8
Eligibility

Sec. 8. An individual who is either:
(1) the beneficiary of a qualified long term care policy approved by the department of insurance; or
(2) enrolled in a health maintenance organization that both provides long term care services and meets the requirements under sections 4 and 5 of this chapter;

is eligible for assistance under the Medicaid program using the asset disregard under section 10 of this chapter.

As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-9
Policy provisions

Sec. 9. (a) An insurer or other person who issues a qualified long term care policy under this chapter must at a minimum offer to each policyholder or prospective policyholder a policy that provides both:
(1) long term care facility coverage; and
(2) home and community care coverage.

(b) An insurer or other person who complies with subsection (a) may also elect to offer a qualified long term care policy that provides only long term care facility coverage.

As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-10
Asset disregard adjustment

Sec. 10. (a) As used in this section, "asset disregard" means one (1) of the following:
(1) A one dollar ($1) increase in the amount of assets an individual who:
(A) purchases a qualified long term care policy; and
(B) meets the requirements under section 8 of this chapter;
may retain under IC 12-15-3 for each one dollar ($1) of benefit paid out under the individual's long term care policy for long term care services.
(2) The total assets an individual owns and may retain under IC 12-15-3 and still qualify for benefits under IC 12-15 at the

time the individual applies for benefits if the individual:

(A) is the beneficiary of a qualified long term care policy that provides maximum benefits at time of purchase of at least one hundred forty thousand dollars ($140,000) and includes a provision under which the daily benefit increases by at least five percent (5%) per year, compounded at least annually;

(B) meets the requirements under section 8 of this chapter; and

(C) has exhausted the benefits of the qualified long term care policy.

(b) When the office determines whether an individual is eligible for Medicaid under IC 12-15-3, the office shall make an asset disregard adjustment for any individual who purchases a qualified long term care policy. The asset disregard must be available after benefits of the long term care policy have been applied to the cost of long term care as required under this chapter.

(c) The qualified long term care policy an individual must purchase to be eligible for the asset disregard under subsection (a)(2) must have maximum benefits at time of purchase equal to at least one hundred forty thousand dollars ($140,000) plus five percent (5%) interest compounded annually beginning January 1, 1999.

As added by P.L.24-1997, SEC.53. Amended by P.L.2-1998, SEC.39.

IC 12-15-39.6-11

Application of asset disregard to determination of individual's assets

Sec. 11. A public program administered by the state that:

(1) provides long term care services; and

(2) bases eligibility upon the amount of the individual's assets;

must apply the asset disregard under section 10 of this chapter in determining the amount of the individual's assets.

As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-12

Discontinuation of program

Sec. 12. If the Indiana long term care program is discontinued, an individual who purchased a qualified long term care policy prior to the date the program is discontinued is eligible to receive an asset disregard as defined under section 10 of this chapter.

As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-13

Reciprocal agreements to extend asset disregard

Sec. 13. The office of Medicaid policy and planning may enter into reciprocal agreements with other states to extend the asset disregard under section 10 of this chapter to Indiana residents who had purchased qualified long term care policies in other states.

As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-14
Rules

Sec. 14. The secretary of family and social services may adopt rules under IC 4-22-2 necessary to implement this chapter.
As added by P.L.24-1997, SEC.53.

IC 12-15-39.6-15
Asset disregard for long term care policyholders

Sec. 15. An individual who:

(1) owns, as of January 1, 1998, a qualified long term care policy; and

(2) has not exhausted the benefits of the qualified long term care policy described in subdivision (1);

is entitled to receive an asset disregard as provided in section 10 of this chapter.
As added by P.L.16-2009, SEC.19.

IC 12-15-40

Chapter 40. Payment for Hospice Services

IC 12-15-40-1

Applicability of chapter

Sec. 1. This chapter applies to a hospice program that has been approved by the office to provide hospice services to hospice program patients.

As added by P.L.24-1997, SEC.54.

IC 12-15-40-2

"Hospice" defined

Sec. 2. (a) As used in this chapter, "hospice" means a person or health care provider who owns or operates a hospice program or facility, or both, that uses an interdisciplinary team directed by a licensed physician to provide a program of planned and continuous care for hospice program patients and their families.

(b) The term includes a program that:

(1) provides a continuum of medical or nursing care and other hospice services to hospice program patients that complies with:

(A) the:

(i) conditions of participation for inpatient units under 42 U.S.C. 1395 et seq.; and

(ii) accreditation standards as provided in the Medicare program under 42 U.S.C. 1395x(dd)(2); and

(B) standards adopted under this article; and

(2) provides hospice services to hospice program patients and complies with standards adopted under this article.

As added by P.L.24-1997, SEC.54.

IC 12-15-40-3

"Hospice program" defined

Sec. 3. (a) As used in this chapter, "hospice program" means a specialized form of interdisciplinary health care that is designed to alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phase of a terminal illness or disease.

(b) The term does not include services provided by a hospital, a health facility, an ambulatory outpatient surgical center, or a home health agency unless the entity has a distinct hospice program.

As added by P.L.24-1997, SEC.54.

IC 12-15-40-4

"Hospice program patient" defined

Sec. 4. As used in this chapter, "hospice program patient" means a terminally ill patient who:

(1) has been diagnosed by a licensed physician as having a terminal illness;

(2) is expected to die from the terminal illness within six (6) months; and

(3) receives hospice services from a hospice program.
As added by P.L.24-1997, SEC.54.

IC 12-15-40-5
"Hospice services" defined

Sec. 5. As used in this chapter, "hospice services" means:

(1) palliative care for the physical, psychological, social, spiritual, and other special needs of a hospice program patient during the final stages of a hospice program patient's terminal illness; and

(2) care for the psychological, social, spiritual, and other needs of the hospice program patient's family before and after the hospice program patient's death.

As added by P.L.24-1997, SEC.54.

IC 12-15-40-6
Payment rate

Sec. 6. The office shall, under 42 U.S.C. 1396 et seq., establish a payment rate to a hospice program for hospice services provided to hospice program patients who are eligible for medical assistance under this article.
As added by P.L.24-1997, SEC.54.

IC 12-15-40-7
Conditions of payment

Sec. 7. Payment to a hospice program must meet the following conditions:

(1) Be determined in accordance with a prospective payment rate that is reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated hospice programs to provide services in conformity with applicable state and federal laws, rules, and regulations, including the federal Social Security Act, and quality and safety standards.

(2) Include the increased costs for medical care, including physician and nursing care, intensive case management, social services, and pharmaceutical and allied health costs.

As added by P.L.24-1997, SEC.54.

IC 12-15-40-8
Adoption of rules

Sec. 8. The office shall adopt rules under IC 4-22-2 to implement this chapter.
As added by P.L.24-1997, SEC.54.

IC 12-15-41

Chapter 41. Medicaid Buy-In Program for Working Individuals With Disabilities

IC 12-15-41-1

"Buy-in program"

Sec. 1. As used in this chapter, "buy-in program" refers to the Medicaid buy-in program for working individuals with disabilities established by section 3 of this chapter.

As added by P.L.287-2001, SEC.9.

IC 12-15-41-2

"Countable resources"

Sec. 2. As used in this chapter, "countable resources" means all cash, other liquid assets, real property, and personal property owned by an applicant for or a recipient of Medicaid under this chapter, or the spouse of an applicant or a recipient, that could be converted to cash to be used for support or maintenance, except the following:

(1) All resources disregarded by the office under this article for the purpose of determining eligibility for Medicaid.

(2) Any resource eligible for exclusion under 42 U.S.C. 1396a(r)(2), including a retirement account established under 26 U.S.C. 220 and held by either the applicant or recipient or the applicant's or recipient's spouse.

(3) Subject to approval by the office, not more than twenty thousand dollars ($20,000) in independence and self-sufficiency accounts held by the applicant or recipient for the sole purpose of purchasing goods or services, including assistive technology and personal assistance, that:

(A) will increase the employability or independence of the applicant or recipient; and

(B) are not services to which the recipient is entitled under Medicaid or any other publicly funded program.

As added by P.L.287-2001, SEC.9. Amended by P.L.197-2011, SEC.42.

IC 12-15-41-3

Establishment

Sec. 3. The Medicaid buy-in program for working individuals with disabilities is established to provide, beginning July 1, 2002, Medicaid to individuals who are disabled and employed, as authorized under Section 201 of the federal Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170, 42 U.S.C. 1396 et seq.).

As added by P.L.287-2001, SEC.9.

IC 12-15-41-4

Exemptions from eligibility requirements

Sec. 4. To participate in the buy-in program beginning July 1, 2002, an individual must meet the eligibility requirements under

IC 12-15-2-6, except as follows:

(1) The individual has a severe medically determinable impairment without regard to the individual's employment status.

(2) The individual must be at least sixteen (16) years of age but not more than sixty-four (64) years of age.

(3) The individual must be engaged in a substantial and reasonable work effort as determined by the office and as permitted by federal law.

(4) The individual does not have countable resources that exceed the resource limits for the federal Supplemental Security Income program (42 U.S.C. 1382).

(5) The individual's annual gross income does not exceed three hundred fifty percent (350%) of the federal income poverty level for an individual. In determining an individual's income under this subdivision, the office may not consider the following:

(A) The income of the individual's spouse.

(B) Income disregarded under the state Medicaid plan's financial methodology, including income disregarded under the federal Supplemental Security Income program (42 U.S.C. 1382) as impairment related work expenses (IRWE).

As added by P.L.287-2001, SEC.9.

IC 12-15-41-5

Continued eligibility requirements after change in circumstances

Sec. 5. An individual who is enrolled in the buy-in program and who no longer meets the eligibility requirements set forth in section 4 of this chapter due to an improvement in the individual's medical condition continues to be eligible for Medicaid coverage under the buy-in program if the individual meets the following requirements:

(1) The individual continues to have a severe medically determinable impairment, as determined by the office and as allowed by federal law.

(2) The individual is employed and earning a monthly wage that is not less than the federal minimum hourly wage times forty (40).

(3) The individual does not have income or countable resources in excess of the limits established under section 4 of this chapter.

(4) The individual is at least sixteen (16) years of age and less than sixty-five (65) years of age.

(5) The individual pays any premiums or other cost sharing required under this chapter.

(6) The individual meets all other eligibility requirements under this chapter.

As added by P.L.287-2001, SEC.9.

IC 12-15-41-6

Continued eligibility if unable to maintain employment

Sec. 6. (a) An individual who is enrolled in the buy-in program and who is unable to maintain employment for involuntary reasons, including temporary leave due to a health problem or involuntary termination, continues to be eligible for Medicaid coverage under the buy-in program if the individual meets the following requirements:

(1) Within sixty (60) days after the date on which the individual becomes unemployed, the individual, or an authorized representative of the individual, submits a written request to the office that the individual's Medicaid coverage be continued.

(2) The individual maintains a connection to the workforce during the individual's continued eligibility period by participating in at least one (1) of the following activities:

(A) Enrollment in a state or federal vocational rehabilitation program.

(B) Enrollment or registration with the office of workforce development.

(C) Participation in a transition from school to work program.

(D) Participation with an approved provider of employment services.

(E) Provision of documentation from the individual's employer that the individual is on temporary involuntary leave.

(3) The individual does not have income or countable resources in excess of the limits established under section 4 of this chapter.

(4) The individual is at least sixteen (16) years of age and less than sixty-five (65) years of age.

(5) The individual pays any premiums or other cost sharing required under this chapter.

(6) The individual meets all other eligibility requirements under this chapter.

(b) The office shall continue Medicaid coverage under the buy-in program for an individual described in subsection (a) for up to twelve (12) months from the date of the individual's involuntary loss of employment.

(c) If an individual is ineligible for continued coverage under the buy-in program because the individual:

(1) fails to meet the requirements of subsection (a); or

(2) has already met twelve (12) months of continuing eligibility under this section;

the individual must meet the eligibility requirements of IC 12-15-2-6 to continue to be eligible for Medicaid.

As added by P.L.287-2001, SEC.9.

IC 12-15-41-7

Sliding scale of premiums

Sec. 7. (a) The office shall develop a sliding scale of premiums for individuals participating in the buy-in program.

(b) The sliding scale of premiums required under subsection (a)

must:

(1) be based on the annual gross income of the individual and, if married, the individual's spouse; and

(2) provide for a minimum monthly premium of twenty-five dollars ($25) and a maximum monthly premium of two hundred seventy-five dollars ($275).

(c) Subject to the minimum and maximum amounts described in subsection (b), the office may annually adjust the scale of premiums adopted under this section.

As added by P.L.287-2001, SEC.9.

IC 12-15-41-8

Premiums

Sec. 8. (a) An individual whose gross annual income, including the gross annual income of the individual's spouse, if married, is less than one hundred fifty percent (150%) of the federal income poverty level for the size of the individual's or couple's family may not be required to pay a premium to participate in the buy-in program.

(b) An individual whose gross annual income, including the gross annual income of the individual's spouse, if married, is at least one hundred fifty percent (150%) but not more than three hundred fifty percent (350%) of the federal income poverty level for the size of the individual's or couple's family, must pay a monthly premium in an amount equal to:

(1) the lesser of:

(A) the amount prescribed by the sliding scale developed by the office under section 7 of this chapter; or

(B) seven and one-half percent (7 1/2%) of the individual's or couple's gross annual income divided by twelve (12); minus

(2) the monthly amount of any premium paid by the individual, the individual's spouse, or the individual's parent for health insurance that covers the individual.

As added by P.L.287-2001, SEC.9.

IC 12-15-41-9

Annual review of premiums; adjustment of premiums

Sec. 9. (a) The office shall annually review the amount of the premium that an individual is required to pay under section 8 of this chapter.

(b) In addition to the annual review required under subsection (a), the office shall adjust the premium that an individual is required to pay under section 8 of this chapter if:

(1) a change in the individual's income or family size is verified; and

(2) the sliding scale adopted under section 7 of this chapter applied to the individual's changed circumstances prescribes a premium for the individual that is different from the premium the individual is paying.

As added by P.L.287-2001, SEC.9. Amended by P.L.26-2003, SEC.3.

IC 12-15-41-10
Administrative procedures regarding premiums

Sec. 10. To the greatest extent possible, the office shall use the same administrative procedures regarding premiums for the buy-in program as are used for the children's health insurance program established under IC 12-17.6, including:

(1) the effect of nonpayment of a premium; and

(2) the collection of premiums.

As added by P.L.287-2001, SEC.9.

IC 12-15-41-11
Annual redetermination of disability

Sec. 11. (a) The office shall establish criteria to base the annual redetermination of disability required under 405 IAC 2-2-3(b) for an individual participating in the buy-in program on the individual's medical evidence, including evidence of physical or mental impairment.

(b) In conducting the annual redetermination described in subsection (a), the office may not determine that an individual participating in the buy-in program is no longer an individual with a disability based solely on the individual's:

(1) participation in employment;

(2) earned income; or

(3) income from self-employment.

As added by P.L.287-2001, SEC.9. Amended by P.L.99-2007, SEC.96.

IC 12-15-41-12
Home health care services; cost sharing

Sec. 12. Except as otherwise provided in this chapter, an individual participating in the buy-in program:

(1) shall receive the same benefits, including home health care services; and

(2) is subject to the same requirements, including cost sharing;

as an individual receiving Medicaid under IC 12-15-2-6.

As added by P.L.287-2001, SEC.9.

IC 12-15-41-13
Criteria for determining effectiveness of buy-in program and continued Medicaid coverage

Sec. 13. (a) The office shall establish criteria to determine the effectiveness of:

(1) the buy-in program; and

(2) continued Medicaid coverage through Section 1619 of the federal Social Security Act (42 U.S.C. 1382h).

(b) The criteria required under subsection (a) must include the following:

(1) The number of individuals with disabilities who are:

(A) enrolled in the buy-in program; or

(B) receiving Medicaid through Section 1619 of the federal

Social Security Act (42 U.S.C. 1382h).

(2) State revenues resulting from premiums paid by participants in the buy-in program.

(3) State costs incurred as a result of implementing the buy-in program, including administrative costs and costs of providing services.

(c) In addition to the criteria required under subsection (b), the office may establish criteria to determine the following:

(1) Comparative costs of Medicaid funded services for participants in the buy-in program and work incentives created through Section 1619 of the federal Social Security Act (42 U.S.C. 1382h) before and after employment.

(2) The number of Supplemental Security Income and Social Security Disability Insurance recipients in Indiana who are no longer dependent on, or who have reduced dependence on, public assistance or health care entitlement services, other than Medicaid or the children's health insurance program, due to participation in the buy-in program or work incentives created through Section 1619 of the federal Social Security Act (42 U.S.C. 1382h).

(3) The number of individuals with severe disabilities who are no longer dependent on, or who have reduced dependence on, public benefits or services, other than Medicaid or the children's health insurance program, due to income or support services received through participation in the buy-in program or work incentives created through Section 1619 of the federal Social Security Act (42 U.S.C. 1382h).

(4) The change in the number of buy-in program participants or participants in work incentives created through Section 1619 of the federal Social Security Act (42 U.S.C. 1382h) who have health care needs and related services covered though employer based benefit programs.

(d) In evaluating the effectiveness of the state's work incentive initiatives for individuals with disabilities, the office:

(1) shall collaborate with other state agencies on data collection; and

(2) may consult with an independent contractor to collect data on the criteria listed under subsection (b).

As added by P.L.287-2001, SEC.9. Amended by P.L.197-2011, SEC.43.

IC 12-15-41-14
Funding for program

Sec. 14. Funding for the buy-in program shall be from funds appropriated by the general assembly, premiums paid, and any federal matching funds available to the program.

As added by P.L.287-2001, SEC.9.

IC 12-15-41-15
Adoption of rules

Sec. 15. (a) The office shall adopt rules under IC 4-22-2 to implement this chapter.

(b) The office may adopt emergency rules under IC 4-22-2-37.1 to implement this chapter on an emergency basis.

As added by P.L.287-2001, SEC.9. Amended by P.L.197-2011, SEC.44.

IC 12-15-42
Repealed

(Repealed by P.L.197-2011, SEC.153.)

IC 12-15-43
Chapter 43. PACE Program

IC 12-15-43-1
Authority to implement PACE

Sec. 1. The office may implement the Program of All-Inclusive Care for the Elderly (PACE) (42 U.S.C. 1396u-4) established under the federal Balanced Budget Act of 1997.
As added by P.L.20-2003, SEC.1.

IC 12-15-43-2
Rules

Sec. 2. The office may adopt rules under IC 4-22-2 necessary to implement this chapter.
As added by P.L.20-2003, SEC.1.

IC 12-15-44
Repealed

(Repealed by P.L.3-2008, SEC.269.)

IC 12-15-44.1

Chapter 44.1. Coordination of Benefits Study

IC 12-15-44.1-1

"Covered entity"

Sec. 1. As used in this chapter, "covered entity" has the meaning set forth in 45 CFR 160.103.

As added by P.L.3-2008, SEC.97.

IC 12-15-44.1-2

Analysis of claims

Sec. 2. (a) Before January 1, 2008, the office shall do the following:

(1) Examine all Medicaid claims paid after January 1, 2001, and before July 1, 2007.

(2) Determine the claims examined under subdivision (1) that were eligible for payment by a third party other than Medicaid.

(3) Recover the costs associated with the claims determined under subdivision (2) to be eligible for payment by a third party other than Medicaid.

(b) If the office requests a covered entity to furnish information to complete the examination required by this section, the covered entity shall furnish the requested information to the office.

As added by P.L.3-2008, SEC.97.

IC 12-15-44.1-3

Release of human identifier information; determination of eligibility

Sec. 3. (a) The office is authorized to transmit the minimum human identifiers in ANSI X.12 270 inquiries, including the name, gender, and date of birth of a Medicaid recipient, to a covered entity licensed or registered to provide health insurance or health care coverage to Indiana residents for the purpose of establishing the coverage in force of a Medicaid recipient who presents a claim.

(b) A health plan that receives a message described in subsection (a) from the office or its agent shall respond to the office or its agent within twenty-four (24) hours.

(c) An entity licensed or registered to provide health insurance or health care coverage to Indiana residents that refuses an ANSI X.12 270 message described in subsection (a) that was transmitted to the entity by the office or its agent is subject to a fine for each refusal in an amount not to exceed one thousand dollars ($1,000) for each refusal.

(d) The office may impose the fine described in subsection (c).

As added by P.L.3-2008, SEC.97.

IC 12-15-44.1-4

Enforcement; injunctive relief; costs

Sec. 4. The office, any medical provider wishing to bill Indiana Medicaid, or any health plan has a cause of action for injunctive

relief against any health plan that fails to comply with this chapter. A plaintiff seeking relief under this section may recover costs of litigation, including attorney's fees.
As added by P.L.3-2008, SEC.97.

IC 12-15-44.1-5
Enforcement; attorney general

Sec. 5. If the office or its agent furnishes evidence that a health plan has refused or failed to respond to messages described in section 3(a) of this chapter transmitted by the office or its agent to the health plan, the attorney general shall:

(1) subpoena the enrollment data of any entity that refuses or fails to respond to the messaging described in section 3(a) of this chapter;

(2) commence a complaint under 42 U.S.C. 1320d-5 for administrative sanctions under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191); and

(3) commence a prosecution under U.S.C. 1035 or IC 5-11-5.5 of any entity that refuses or fails to respond to the messaging described under section 3(a) of this chapter.

As added by P.L.3-2008, SEC.97.

IC 12-15-44.1-6
Implementation of procedures to coordinate benefit payments

Sec. 6. (a) If, after the office completes its examination under section 2 of this chapter, the office determines that the number of claims determined under section 2(a)(2) of this chapter is at least one percent (1%) of the number of claims examined under section 2(a)(1) of this chapter, the office shall develop and implement a procedure to improve the coordination of benefits between:

(1) the Medicaid program; and

(2) entities that provide health coverage to a Medicaid recipient.

(b) If a procedure is developed and implemented under subsection (a), the procedure:

(1) must be automated; and

(2) must have the capability to determine whether a Medicaid claim is eligible for payment by an entity other than the Medicaid program before the claim is paid under the Medicaid program.

As added by P.L.3-2008, SEC.97.

IC 12-15-44.2

Chapter 44.2. Indiana Check-Up Plan

IC 12-15-44.2-1

"Plan"

Sec. 1. As used in this chapter, "plan" refers to the Indiana check-up plan established by section 3 of this chapter.

As added by P.L.3-2008, SEC.98.

IC 12-15-44.2-2

"Preventative care services"

Sec. 2. As used in this chapter, "preventative care services" means care that is provided to an individual to prevent disease, diagnose disease, or promote good health.

As added by P.L.3-2008, SEC.98.

IC 12-15-44.2-3

Plan established; administration; referral of high risk individuals; inapplicability of laws

Sec. 3. (a) The Indiana check-up plan is established.

(b) The office shall administer the plan.

(c) The department of insurance and the office of the secretary shall provide oversight of the marketing practices of the plan.

(d) The office shall promote the plan and provide information to potential eligible individuals who live in medically underserved rural areas of Indiana.

(e) The office shall, to the extent possible, ensure that enrollment in the plan is distributed throughout Indiana in proportion to the number of individuals throughout Indiana who are eligible for participation in the plan.

(f) The office shall establish standards for consumer protection, including the following:

(1) Quality of care standards.

(2) A uniform process for participant grievances and appeals.

(3) Standardized reporting concerning provider performance, consumer experience, and cost.

(g) A health care provider that provides care to an individual who receives health insurance coverage under the plan shall participate in the Medicaid program under IC 12-15.

(h) The office of the secretary may refer an individual who:

(1) has applied for health insurance coverage under the plan; and

(2) is at high risk of chronic disease;

to the Indiana comprehensive health insurance association for administration of the individual's plan benefits under IC 27-8-10.1.

(i) The following do not apply to the plan:

(1) IC 12-15-6.

(2) IC 12-15-12.

(3) IC 12-15-13.

(4) IC 12-15-14.

(5) IC 12-15-15.
(6) IC 12-15-21.
(7) IC 12-15-26.
(8) IC 12-15-31.1.
(9) IC 12-15-34.
(10) IC 12-15-35.
(11) IC 12-15-35.5.
(12) IC 16-42-22-10.

As added by P.L.3-2008, SEC.98.

IC 12-15-44.2-4
Services included in plan

Sec. 4. (a) The plan must include the following in a manner and to the extent determined by the office:

(1) Mental health care services.
(2) Inpatient hospital services.
(3) Prescription drug coverage.
(4) Emergency room services.
(5) Physician office services.
(6) Diagnostic services.
(7) Outpatient services, including therapy services.
(8) Comprehensive disease management.
(9) Home health services, including case management.
(10) Urgent care center services.
(11) Preventative care services.
(12) Family planning services:
(A) including contraceptives and sexually transmitted disease testing, as described in federal Medicaid law (42 U.S.C. 1396 et seq.); and
(B) not including abortion or abortifacients.
(13) Hospice services.
(14) Substance abuse services.
(15) A service determined by the secretary to be required by federal law as a benchmark service under the federal Patient Protection and Affordable Care Act.

(b) The plan may do the following:

(1) Offer coverage for dental and vision services to an individual who participates in the plan.
(2) Pay at least fifty percent (50%) of the premium cost of dental and vision services coverage described in subdivision (1).

(c) An individual who receives the dental or vision coverage offered under subsection (b) shall pay an amount determined by the office for the coverage. The office shall limit the payment to not more than five percent (5%) of the individual's annual household income. The payment required under this subsection is in addition to the payment required under section 11(b)(2) of this chapter for coverage under the plan.

(d) Vision services offered by the plan must include services provided by an optometrist.

(e) The plan must comply with any coverage requirements that apply to an accident and sickness insurance policy issued in Indiana.

(f) The plan may not permit treatment limitations or financial requirements on the coverage of mental health care services or substance abuse services if similar limitations or requirements are not imposed on the coverage of services for other medical or surgical conditions.

As added by P.L.3-2008, SEC.98. Amended by P.L.160-2011, SEC.7.

IC 12-15-44.2-5

Preventative care

Sec. 5. (a) The office shall provide to an individual who participates in the plan a list of health care services that qualify as preventative care services for the age, gender, and preexisting conditions of the individual. The office shall consult with the federal Centers for Disease Control and Prevention for a list of recommended preventative care services.

(b) The plan shall, at no cost to the individual, provide payment for not more than five hundred dollars ($500) of qualifying preventative care services per year for an individual who participates in the plan. Any additional preventative care services covered under the plan and received by the individual during the year are subject to the deductible and payment requirements of the plan.

As added by P.L.3-2008, SEC.98.

IC 12-15-44.2-6

Coverage limitations

Sec. 6. To the extent allowed by federal law, the plan has the following per participant coverage limitations:

(1) An annual individual maximum coverage limitation of three hundred thousand dollars ($300,000).

(2) A lifetime individual maximum coverage limitation of one million dollars ($1,000,000).

As added by P.L.3-2008, SEC.98. Amended by P.L.160-2011, SEC.8.

IC 12-15-44.2-7

Use of appropriated funds

Sec. 7. The following requirements apply to funds appropriated by the general assembly to the plan:

(1) At least eighty-five percent (85%) of the funds must be used to fund payment for health care services.

(2) An amount determined by the office of the secretary to fund:

(A) administrative costs of; and

(B) any profit made by;

an insurer or a health maintenance organization under a contract with the office to provide health insurance coverage under the plan. The amount determined under this subdivision may not exceed fifteen percent (15%) of the funds.

As added by P.L.3-2008, SEC.98.

IC 12-15-44.2-8
Not an entitlement; maximum enrollment

Sec. 8. The plan is not an entitlement program. The maximum enrollment of individuals who may participate in the plan is dependent on funding appropriated for the plan.

As added by P.L.3-2008, SEC.98.

IC 12-15-44.2-9
Eligibility requirements

Sec. 9. (a) An individual is eligible for participation in the plan if the individual meets the following requirements:

(1) The individual is at least eighteen (18) years of age and less than sixty-five (65) years of age.

(2) The individual is a United States citizen and has been a resident of Indiana for at least twelve (12) months.

(3) The individual has an annual household income of not more than the following:

(A) Effective through December 31, 2013, two hundred percent (200%) of the federal income poverty level.

(B) Beginning January 1, 2014, one hundred thirty-three percent (133%) of the federal income poverty level, based on the adjusted gross income provisions set forth in Section 2001(a)(1) of the federal Patient Protection and Affordable Care Act.

(4) Effective through December 31, 2013, the individual is not eligible for health insurance coverage through the individual's employer.

(5) Effective through December 31, 2013, the individual has:

(A) not had health insurance coverage for at least six (6) months; or

(B) had coverage under the Indiana comprehensive health insurance association (IC 27-8-10) within the immediately preceding six (6) months and the coverage no longer applies under IC 27-8-10-0.5.

(b) The following individuals are not eligible for the plan:

(1) An individual who participates in the federal Medicare program (42 U.S.C. 1395 et seq.).

(2) A pregnant woman for purposes of pregnancy related services.

(3) An individual who is otherwise eligible for medical assistance.

(c) The eligibility requirements specified in subsection (a) are subject to approval for federal financial participation by the United States Department of Health and Human Services.

As added by P.L.3-2008, SEC.98. Amended by P.L.160-2011, SEC.9; P.L.278-2013, SEC.14.

IC 12-15-44.2-10
Health care account; funding

Sec. 10. (a) An individual who participates in the plan must have

a health care account to which payments may be made for the individual's participation in the plan only by the following:

(1) The individual.

(2) An employer.

(3) The state.

(4) A nonprofit organization if the nonprofit organization:

(A) is not affiliated with a health care plan; and

(B) does not contribute more than seventy-five percent (75%) of the individual's required payment to the individual's health care account.

(5) An insurer or a health maintenance organization under a contract with the office to provide health insurance coverage under the plan if the payment:

(A) is to provide a health incentive to the individual;

(B) does not count towards the individual's required minimum payment set forth in section 11 of this chapter; and

(C) does not exceed one thousand one hundred dollars ($1,100).

(b) The minimum funding amount for a health care account is the amount required under section 11 of this chapter.

(c) An individual's health care account must be used to pay the individual's deductible for health care services under the plan.

(d) An individual may make payments to the individual's health care account as follows:

(1) An employer withholding or causing to be withheld from an employee's wages or salary, after taxes are deducted from the wages or salary, the individual's contribution under this chapter and distributed equally throughout the calendar year.

(2) Submission of the individual's contribution under this chapter to the office to deposit in the individual's health care account in a manner prescribed by the office.

(3) Another method determined by the office.

(e) An employer may make, from funds not payable by the employer to the employee, not more than fifty percent (50%) of an individual's required payment to the individual's health care account.

(f) A nonprofit corporation may make not more than seventy-five percent (75%) of an individual's required payment to the individual's health care account.

As added by P.L.3-2008, SEC.98. Amended by P.L.160-2011, SEC.10.

IC 12-15-44.2-11

Participation requirements; contributions to health care account; nonpayment

Sec. 11. (a) An individual's participation in the plan does not begin until an initial payment is made for the individual's participation in the plan. A required payment to the plan for the individual's participation may not exceed one-twelfth (1/12) of the annual payment required under subsection (b).

(b) To participate in the plan, an individual shall do the following:

(1) Apply for the plan on a form prescribed by the office. The office may develop and allow a joint application for a household.

(2) If the individual is approved by the office to participate in the plan, contribute to the individual's health care account the lesser of the following:

(A) One thousand one hundred dollars ($1,100) per year, less any amounts paid by the individual under the:

(i) Medicaid program under IC 12-15;

(ii) children's health insurance program under IC 12-17.6; and

(iii) Medicare program (42 U.S.C. 1395 et seq.);

as determined by the office.

(B) At least one hundred sixty dollars ($160) per year and not more than the following applicable percentage of the individual's annual household income per year, less any amounts paid by the individual under the Medicaid program under IC 12-15, the children's health insurance program under IC 12-17.6, and the Medicare program (42 U.S.C. 1395 et seq.) as determined by the office:

(i) Two percent (2%) of the individual's annual household income per year if the individual has an annual household income of not more than one hundred percent (100%) of the federal income poverty level.

(ii) Three percent (3%) of the individual's annual household income per year if the individual has an annual household income of more than one hundred percent (100%) and not more than one hundred twenty-five percent (125%) of the federal income poverty level.

(iii) Four percent (4%) of the individual's annual household income per year if the individual has an annual household income of more than one hundred twenty-five percent (125%) and not more than one hundred fifty percent (150%) of the federal income poverty level.

(iv) Five percent (5%) of the individual's annual household income per year if the individual has an annual household income of more than one hundred fifty percent (150%) and not more than two hundred percent (200%) of the federal income poverty level.

(c) The state shall contribute the difference to the individual's account if the individual's payment required under subsection (b)(2) is less than one thousand one hundred dollars ($1,100).

(d) If an individual's required payment to the plan is not made within sixty (60) days after the required payment date, the individual may be terminated from participation in the plan. The individual must receive written notice before the individual is terminated from the plan.

(e) After termination from the plan under subsection (d), the individual may not reapply to participate in the plan for twelve (12) months.

As added by P.L.3-2008, SEC.98. Amended by P.L.160-2011, SEC.11.

IC 12-15-44.2-12
Plan period; renewal; termination; refund of payments to health care account

Sec. 12. (a) An individual who is approved to participate in the plan is eligible for a twelve (12) month plan period. An individual who participates in the plan may not be refused renewal of participation in the plan for the sole reason that the plan has reached the plan's maximum enrollment.

(b) If the individual chooses to renew participation in the plan, the individual shall complete a renewal application and any necessary documentation, and submit to the office the documentation and application on a form prescribed by the office.

(c) If the individual chooses not to renew participation in the plan, the individual may not reapply to participate in the plan for at least twelve (12) months.

(d) Any funds remaining in the health care account of an individual who renews participation in the plan at the end of the individual's twelve (12) month plan period must be used to reduce the individual's payments for the subsequent plan period. However, if the individual did not, during the plan period, receive all qualified preventative services recommended as provided in section 5 of this chapter, the state's contribution to the health care account may not be used to reduce the individual's payments for the subsequent plan period.

(e) If an individual is no longer eligible for the plan, does not renew participation in the plan at the end of the plan period, or is terminated from the plan for nonpayment of a required payment, the office shall, not more than sixty (60) days after the last date of participation in the plan, refund to the individual the amount determined under subsection (f) of any funds remaining in the individual's health care account as follows:

(1) An individual who is no longer eligible for the plan or does not renew participation in the plan at the end of the plan period shall receive the amount determined under STEP FOUR of subsection (f).

(2) An individual who is terminated from the plan due to nonpayment of a required payment shall receive the amount determined under STEP FIVE of subsection (f).

(f) The office shall determine the amount payable to an individual described in subsection (e) as follows:

STEP ONE: Determine the total amount paid into the individual's health care account under section 10(d) of this chapter.

STEP TWO: Determine the total amount paid into the individual's health care account from all sources.

STEP THREE: Divide STEP ONE by STEP TWO.

STEP FOUR: Multiply the ratio determined in STEP THREE

by the total amount remaining in the individual's health care account.

STEP FIVE: Multiply the amount determined under STEP FOUR by seventy-five hundredths (0.75).

As added by P.L.3-2008, SEC.98.

IC 12-15-44.2-13

Payment for nonemergency services in emergency room

Sec. 13. Subject to appeal to the office, an individual may be held responsible under the plan for receiving nonemergency services in an emergency room setting, including prohibiting the individual from using funds in the individual's health care account to pay for the nonemergency services. However, an individual may not be prohibited from using funds in the individual's health care account to pay for nonemergency services provided in an emergency room setting for a medical condition that arises suddenly and unexpectedly and manifests itself by acute symptoms of such severity, including severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent layperson who possesses an average knowledge of health and medicine to:

(1) place an individual's health in serious jeopardy;

(2) result in serious impairment to the individual's bodily functions; or

(3) result in serious dysfunction of a bodily organ or part of the individual.

As added by P.L.3-2008, SEC.98.

IC 12-15-44.2-14

Claim processing; provider reimbursement; cultural competency

Sec. 14. (a) An insurer or health maintenance organization that contracts with the office to provide health insurance coverage, dental coverage, or vision coverage to an individual who participates in the plan:

(1) is responsible for the claim processing for the coverage;

(2) shall reimburse providers:

(A) at a reimbursement rate of not less than the federal Medicare reimbursement rate for the service provided; or

(B) at a rate of one hundred thirty percent (130%) of the Medicaid reimbursement rate for a service that does not have a Medicare reimbursement rate; and

(3) may not deny coverage to an eligible individual who has been approved by the office to participate in the plan, unless the individual has met the coverage limitations described in section 6 of this chapter.

(b) An insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan must incorporate cultural competency standards established by the office. The standards must include standards for non-English speaking, minority, and disabled populations.

As added by P.L.3-2008, SEC.98. Amended by P.L.42-2011, SEC.30.

IC 12-15-44.2-15
Expired

(Expired 12-31-2013 by P.L.160-2011, SEC.12.)

IC 12-15-44.2-16
Offer of coverage to ineligible individuals

Sec. 16. (a) An insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan or an affiliate of an insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan shall offer to provide the same health insurance coverage to an individual who:

(1) has not had health insurance coverage during the previous six (6) months; and

(2) does not meet the eligibility requirements specified in section 9 of this chapter for participation in the plan.

(b) An insurer, a health maintenance organization, or an affiliate described in subsection (a) may apply to health insurance coverage offered under subsection (a) the insurer's, health maintenance organization's, or affiliate's standard individual or small group insurance underwriting and rating practices.

(c) The state does not provide funding for health insurance coverage received under this section.

As added by P.L.3-2008, SEC.98.

IC 12-15-44.2-17
Indiana check-up fund

Sec. 17. (a) The Indiana check-up plan trust fund is established for the following purposes:

(1) Administering a plan created by the general assembly to provide health insurance coverage for low income residents of Indiana under this chapter.

(2) Providing copayments, preventative care services, and premiums for individuals enrolled in the plan.

(3) Funding tobacco use prevention and cessation programs, childhood immunization programs, and other health care initiatives designed to promote the general health and well being of Indiana residents.

The fund is separate from the state general fund.

(b) The fund shall be administered by the office of the secretary of family and social services.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The fund shall consist of the following:

(1) Cigarette tax revenues designated by the general assembly to be part of the fund.

(2) Other funds designated by the general assembly to be part of the fund.

(3) Federal funds available for the purposes of the fund.

(4) Gifts or donations to the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money must be appropriated before funds are available for use.

(g) Money in the fund does not revert to the state general fund at the end of any fiscal year.

(h) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

As added by P.L.3-2008, SEC.98.

IC 12-15-44.2-18

Requirements for implementation

Sec. 18. (a) The office may not:

(1) enroll applicants;

(2) approve any contracts with vendors to provide services or administer the plan;

(3) incur costs other than costs necessary to study and plan for the implementation of the plan; or

(4) create financial obligations for the state;

unless both of the conditions of subsection (b) are satisfied.

(b) The office may not take any action described in subsection (a) unless:

(1) there is a specific appropriation from the general assembly to implement the plan; and

(2) after review by the budget committee, the budget agency approves an actuarial analysis that reflects a determination that sufficient funding is reasonably estimated to be available to operate the plan for at least the following five (5) years.

The actuarial analysis approved under subdivision (2) must clearly indicate the cost and revenue assumptions used in reaching the determination.

(c) The office may not operate the plan in a manner that would obligate the state to financial participation beyond the level of state appropriations authorized for the plan.

As added by P.L.3-2008, SEC.98.

IC 12-15-44.2-19

Rules

Sec. 19. (a) The office may adopt rules under IC 4-22-2 necessary to implement this chapter.

(b) The office may adopt emergency rules under IC 4-22-2-37.1 to implement the plan on an emergency basis.

As added by P.L.3-2008, SEC.98. Amended by P.L.1-2010, SEC.59.

IC 12-15-44.2-20

Premium assistance program

Sec. 20. (a) The office may establish a health insurance coverage premium assistance program for individuals who meet the following:

(1) Have an annual household income of the following:
(A) Through December 31, 2013, not more than two hundred percent (200%) of the federal income poverty level.
(B) Beginning January 1, 2014, not more than one hundred thirty-three percent (133%) of the federal income poverty level, based on the adjusted gross income provisions set forth in Section 2001(a)(1) of the federal Patient Protection and Affordable Care Act.
(2) Are eligible for health insurance coverage through an employer but cannot afford the health insurance coverage premiums.
(b) A program established under this section must:
(1) contain eligibility requirements that are similar to the eligibility requirements of the plan;
(2) include a health care account as a component; and
(3) provide that an individual's payment:
(A) to a health care account; or
(B) for a health insurance coverage premium;
may not exceed five percent (5%) of the individual's annual income.
As added by P.L.3-2008, SEC.98. Amended by P.L.160-2011, SEC.13.

IC 12-15-44.2-21
Federal approval; severability; changes to plan
Sec. 21. (a) A denial of federal approval and federal financial participation that applies to any part of this chapter does not prohibit the office from implementing any other part of this chapter that:
(1) is federally approved for federal financial participation; or
(2) does not require federal approval or federal financial participation.
(b) The secretary may make changes to the plan under this chapter if the changes are required by one (1) of the following:
(1) The United States Department of Health and Human Services.
(2) Federal law or regulation.
As added by P.L.3-2008, SEC.98. Amended by P.L.160-2011, SEC.14.

IC 12-15-44.2-22
Authority to amend plan to cover certain individuals
Sec. 22. The office of the secretary may amend the plan in a manner that would allow Indiana to use the plan to cover individuals eligible for Medicaid resulting from passage of the Federal Patient Protection and Affordable Care Act.
As added by P.L.160-2011, SEC.15.

IC 12-15-45
Repealed

(Repealed by P.L.6-2012, SEC.93; P.L.6-2012, SEC.94.)

IC 12-15-46

Chapter 46. Medicaid Waivers and State Plan Amendments

IC 12-15-46-1

Eligibility for family planning services; state plan amendment; rules

Sec. 1. (a) As used in this section, "family planning services" does not include the performance of abortions or the use of a drug or device intended to terminate fertilization.

(b) As used in this section, "fertilization" means the joining of a human egg cell with a human sperm cell.

(c) As used in this section, "state plan amendment" refers to an amendment to Indiana's Medicaid State Plan as authorized by Section 1902(a)(10)(A)(ii)(XXI) of the federal Social Security Act (42 U.S.C. 1315).

(d) Before January 1, 2012, the office shall do the following:

(1) Apply to the United States Department of Health and Human Services for approval of a state plan amendment to expand the population eligible for family planning services and supplies as permitted by Section 1902(a)(10)(A)(ii)(XXI) of the federal Social Security Act (42 U.S.C. 1315). In determining what population is eligible for this expansion, the state must incorporate the following:

(A) Inclusion of women and men.

(B) Setting income eligibility at one hundred thirty-three percent (133%) of the federal income poverty level.

(C) Adopting presumptive eligibility for services to this population.

(2) Consider the inclusion of additional:

(A) medical diagnosis; and

(B) treatment services;

that are provided for family planning services in a family planning setting for the population designated in subdivision (1) in the state plan amendment.

(e) The office may adopt rules under IC 4-22-2 to implement this section.

(f) This section expires January 1, 2016.

As added by P.L.6-2012, SEC.95. Amended by P.L.205-2013, SEC.208.

IC 12-15-46-2

Report by division concerning review of plan to reduce cost of waiver

Sec. 2. (a) As used in this section, "commission" refers to the select joint commission on Medicaid oversight established by IC 2-5-26-3 (before its repeal).

(b) As used in this section, "division" refers to the division of disability and rehabilitative services established by IC 12-9-1-1.

(c) As used in this chapter, "waiver" refers to the federal Medicaid developmental disabilities home and community based services

waiver program that is administered by the office and the division.

(d) Before July 1, 2012, the division shall report orally and in writing to the commission for review of a plan to reduce the aggregate and per capita cost of the waiver by implementing changes to the waiver, which may include the following:

(1) Calculating budget neutrality on an individual rather than an aggregate basis.

(2) Instituting a family care program to provide recipients with another option for receiving services.

(3) Evaluating the current system to determine whether a group home or a waiver home is the most appropriate use of resources for placement of the individual.

(4) Evaluating alternative placements for high cost individuals to ensure individuals are served in the most integrated setting appropriate to the individual's needs and within the resources available to the state.

(5) Migrating individuals from the waiver to a redesigned waiver that provides options to individuals for receiving services and supports appropriate to meet the individual's needs and that are cost effective and high quality and focus on social and health outcomes.

(6) Requiring cost participation by a recipient whose family income exceeds five hundred percent (500%) of the federal income poverty level, factoring in medical expenses and personal care needs expenses of the recipient.

(e) After the division makes the report required under subsection (d), the division may consult with the office and take any action necessary to carry out the requirements of this section, including applying to the federal Department of Health and Human Services for approval to amend the waiver.

As added by P.L.6-2012, SEC.95. Amended by P.L.205-2013, SEC.209.

IC 12-16

ARTICLE 16. PAYMENT FOR HEALTH SERVICES OTHER THAN MEDICAID

IC 12-16-1

Chapter 1. Medical Services for Inmates and Patients

IC 12-16-1-1

"Affected agency" defined

Sec. 1. As used in this chapter, "affected agency" means any of the following:

(1) The department of correction.

(2) The state department of health.

(3) The division of mental health and addiction.

(4) The division of disability and rehabilitative services.

As added by P.L.2-1992, SEC.10. Amended by P.L.40-1994, SEC.22; P.L.215-2001, SEC.46; P.L.141-2006, SEC.56.

IC 12-16-1-2

"Covered medical services" defined

Sec. 2. As used in this chapter, "covered medical services" refers to medical services that meet the following qualifications:

(1) Cost more than one hundred fifty dollars ($150).

(2) Are provided to a committed individual or patient of an institution under the jurisdiction of an affected agency.

(3) Are provided outside of an institution under the jurisdiction of an affected agency.

As added by P.L.2-1992, SEC.10.

IC 12-16-1-3

Rules; adoption; requisites

Sec. 3. (a) The division shall, with the advice of the division's medical staff, representatives of affected agencies, and other individuals selected by the director of the division, adopt rules under IC 4-22-2 to do the following:

(1) Provide for prior review and approval of covered medical services, including special review and approval procedures for emergency covered medical services.

(2) Establish limitations consistent with medical necessity on the duration of services to be provided.

(3) Specify the amount of and method for reimbursement for services.

(4) Specify the conditions under which payments will be denied and improper payments will be recovered.

(b) To the extent possible, rules adopted under this section must be consistent with Title XIX of the federal Social Security Act and with IC 12-15-21-2 and IC 12-15-21-3.

As added by P.L.2-1992, SEC.10.

IC 12-16-1-4

Contract for services; same contractor requirement

Sec. 4. (a) The division shall contract with the same contractor with which the office contracts under IC 12-15-30 to provide administrative and fiscal services to implement this chapter.

(b) A contract for services is not subject to IC 5-22.

As added by P.L.2-1992, SEC.10. Amended by P.L.49-1997, SEC.45.

IC 12-16-1-5

Payment for covered medical services; requirements

Sec. 5. Payment for covered medical services approved by the fiscal agent shall be paid:

(1) from money for the Medicaid program if the requirements of IC 12-15 are met; or

(2) if a payment cannot be made under subdivision (1), from a state appropriation either made for an affected agency or for covered medical services for all affected agencies.

As added by P.L.2-1992, SEC.10.

IC 12-16-2
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-2.5

Chapter 2.5. Hospital Care for the Indigent; Administration and General Provisions

IC 12-16-2.5-1

Administration of program

Sec. 1. The division shall administer the hospital care for the indigent program under this article.

As added by P.L.120-2002, SEC.18.

IC 12-16-2.5-2

Repealed

(Repealed by P.L.146-2008, SEC.819.)

IC 12-16-2.5-3

Repealed

(Repealed by P.L.145-2005, SEC.31.)

IC 12-16-2.5-4

Disproportionate share of low income patients; calculating allowable disproportionate share additional payments

Sec. 4. To the extent permitted under federal statutes or regulations, patient days for patients under the hospital care for the indigent program shall be included in calculating allowable disproportionate share additional payments under 42 U.S.C. 1395 ww(d).

As added by P.L.120-2002, SEC.18.

IC 12-16-2.5-5

Program not applicable to inmates and patients of certain institutions

Sec. 5. The hospital care for the indigent program does not apply to inmates and patients of institutions of the department of correction, the state department of health, the division of mental health and addiction, the division of aging, or the division of disability and rehabilitative services.

As added by P.L.120-2002, SEC.18. Amended by P.L.141-2006, SEC.57.

IC 12-16-2.5-6

Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-2.5-6.3

Definitions

Sec. 6.3. For purposes of this article, the following definitions apply to the hospital care for the indigent program:

(1) "Assistance" means the satisfaction of a person's financial obligation under IC 12-16-7.5-1.2 for hospital items or services, physician services, or transportation services provided to the

person.

(2) "Claim" means a statement filed with the division by a hospital, physician, or transportation provider that identifies the health care items or services the hospital, physician, or transportation provider rendered to a person for whom an application under IC 12-16-4.5 has been filed with the division.

(3) "Eligible" or "eligibility", when used in regard to a person for whom an application under IC 12-16-4.5 has been filed with the division, means the extent to which:

(A) the person, for purposes of the application, satisfies the income and resource standards established under IC 12-16-3.5; and

(B) the person's medical condition, for purposes of the application, satisfies one (1) or more of the medical conditions identified in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3).

As added by P.L.145-2005, SEC.3.

IC 12-16-2.5-6.5
Repealed

(Repealed by P.L.212-2007, SEC.31; P.L.218-2007, SEC.52.)

IC 12-16-3
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-3.5

Chapter 3.5. Hospital Care for the Indigent; Eligibility for Assistance

IC 12-16-3.5-1

Resident eligibility; emergency care; conditions

Sec. 1. (a) An Indiana resident who meets the income and resource standards established by the division under section 3 of this chapter is eligible for assistance to satisfy the resident's financial obligation for care provided to the resident in a hospital in Indiana that was necessitated after the onset of a medical condition that was manifested by symptoms of sufficient severity that the absence of immediate medical attention would probably result in any of the following:

(1) Placing the individual's life in jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of a bodily organ or part.

(b) A qualified resident is also eligible for assistance to satisfy the resident's financial obligation for the care that is a direct consequence of the medical condition that necessitated the emergency care.

As added by P.L.120-2002, SEC.19. Amended by P.L.145-2005, SEC.5.

IC 12-16-3.5-2

Nonresident eligibility; emergency care; conditions; qualifications

Sec. 2. (a) An individual who is not an Indiana resident is eligible for assistance to satisfy the individual's financial obligation for the care provided to the individual in a hospital in Indiana that was necessitated after the onset of a medical condition that was manifested by symptoms of sufficient severity that the absence of immediate medical attention would probably result in any of the following:

(1) Placing the individual's life in jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of any bodily organ or part.

(b) An individual is eligible for assistance under subsection (a) only if the following qualifications exist:

(1) The individual meets the income and resource standards established by the division under section 3 of this chapter.

(2) The onset of the medical condition that necessitated medical attention occurred in Indiana.

As added by P.L.120-2002, SEC.19. Amended by P.L.145-2005, SEC.6.

IC 12-16-3.5-3

Rules establishing income and resource eligibility standards; adoption; conditions

Sec. 3. (a) The division shall adopt rules under IC 4-22-2 to establish income and resource eligibility standards for patients whose care is to be paid under the hospital care for the indigent program.

(b) To the extent possible and subject to this article, rules adopted under this section must meet the following conditions:

(1) Be consistent with IC 12-15-21-2 and IC 12-15-21-3.

(2) Be adjusted at least one (1) time every two (2) years.

(c) The income and eligibility standards established under this section do not include any spend down provisions available under IC 12-15-21-2 or IC 12-15-21-3.

(d) In addition to the conditions imposed under subsection (b), rules adopted under this section must exclude a Holocaust victim's settlement payment received by an eligible individual from the income and eligibility standards for patients whose care is to be paid for under the hospital care for the indigent program.

As added by P.L.120-2002, SEC.19. Amended by P.L.145-2005, SEC.7.

IC 12-16-3.5-4

Statement of eligibility and benefit standards; requirement

Sec. 4. A provider may provide a patient, and if the patient is not able to understand the statement, the patient's representative, with a statement of the eligibility and benefit standards adopted by the division if at least one (1) of the following occurs:

(1) The provider has reason to believe that the patient may be indigent.

(2) The patient requests a statement of the standards.

As added by P.L.120-2002, SEC.19. Amended by P.L.212-2007, SEC.12; P.L.218-2007, SEC.23.

IC 12-16-3.5-5

Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-4
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-4.5

Chapter 4.5. Hospital Care for the Indigent; Application for Assistance

IC 12-16-4.5-1

Repealed

(Repealed by P.L.146-2008, SEC.819.)

IC 12-16-4.5-2

Time period for provider filing application

Sec. 2. A provider must file the application with the division not more than forty-five (45) days after the person has been released or discharged from the hospital, unless the person is medically unable and the next of kin or legal representative is unavailable.

As added by P.L.120-2002, SEC.20. Amended by P.L.255-2003, SEC.26; P.L.145-2005, SEC.9; P.L.212-2007, SEC.14; P.L.218-2007, SEC.25.

IC 12-16-4.5-3

Rules

Sec. 3. Subject to this article, the division shall adopt rules under IC 4-22-2 prescribing the following:

(1) The form of an application.

(2) The establishment of procedures for applications.

(3) The time for submitting and processing claims.

As added by P.L.120-2002, SEC.20. Amended by P.L.145-2005, SEC.10.

IC 12-16-4.5-4

Repealed

(Repealed by P.L.146-2008, SEC.819.)

IC 12-16-4.5-5

Assistance in preparing application

Sec. 5. A hospital or an attending physician may assist the patient in the preparation of an application for assistance under the hospital care for the indigent program.

As added by P.L.120-2002, SEC.20.

IC 12-16-4.5-6

Civil or criminal liability arising from assistance in preparation of application; immunity

Sec. 6. A person who in good faith provides assistance in the completion of an application under this chapter is immune from civil or criminal liability arising from the assistance.

As added by P.L.120-2002, SEC.20.

IC 12-16-4.5-7

Signing of application; requirements

Sec. 7. (a) A patient must sign an application if the patient is

medically able to sign.

(b) If a patient is medically unable to sign an application, the patient's next of kin or a legal representative, if available, may sign the application.

(c) If no person under subsections (a) and (b) is able to sign the application to file a timely application, a provider's representative may sign the application instead of the patient.

As added by P.L.120-2002, SEC.20. Amended by P.L.212-2007, SEC.15; P.L.218-2007, SEC.26.

IC 12-16-4.5-8

Filing application by patient or patient's representative

Sec. 8. (a) A person or a person's representative may file an application directly with the division if the application is filed not more than forty-five (45) days after the person has been released or discharged from the hospital.

(b) Reimbursement for the costs incurred in providing care to an eligible person may only be made to the providers of the care.

As added by P.L.120-2002, SEC.20. Amended by P.L.255-2003, SEC.27; P.L.145-2005, SEC.11.

IC 12-16-4.5-8.5

Provider claim filing deadline

Sec. 8.5. A claim for services must be filed with the division not more than one hundred eighty (180) days after the person who received the care has been released or discharged from the hospital. For good cause as determined by the division, this one hundred eighty (180) day limit may be extended or waived for a claim.

As added by P.L.145-2005, SEC.12. Amended by P.L.212-2007, SEC.16; P.L.218-2007, SEC.27.

IC 12-16-4.5-9

Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-5
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-5.5

Chapter 5.5. Hospital Care for the Indigent; Eligibility Determinations; Investigations

IC 12-16-5.5-1

Repealed

(Repealed by P.L.146-2008, SEC.819.)

IC 12-16-5.5-1.2

Prompt review of claim; calculation of claim

Sec. 1.2. (a) The division shall, upon receipt of a claim pertaining to a person:

(1) who was provided care by an eligible provider; and

(2) whose medical condition satisfies one (1) or more of the medical conditions identified in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3);

promptly review the claim to determine if the health care items or services identified in the claim were necessitated by the person's medical condition or, if applicable, if the items or services were a direct consequence of the person's medical condition.

(b) In conducting the review of a claim referenced in subsection (a), the division shall calculate the amount of the claim. For purposes of this section, IC 12-15-15-9, IC 12-15-15-9.5, IC 12-16-6.5, and IC 12-16-7.5, the amount of a claim shall be calculated in a manner described in IC 12-16-7.5-2.5(c).

As added by P.L.145-2005, SEC.14. Amended by P.L.212-2007, SEC.18; P.L.218-2007, SEC.29.

IC 12-16-5.5-2

Disclosure of information by provider; immunity

Sec. 2. (a) The provider of medical care to a patient shall provide information the provider has that would assist in the verification of indigency of a patient.

(b) A provider that provides information under subsection (a) is immune from civil and criminal liability for divulging the information.

As added by P.L.120-2002, SEC.21. Amended by P.L.212-2007, SEC.19; P.L.218-2007, SEC.30.

IC 12-16-5.5-3

Denial of eligibility claim; notice; eligibility information

Sec. 3. (a) Subject to subsection (b) and IC 12-16-6.5-1.5, if the division is unable after prompt and diligent efforts to verify information contained in the application that is reasonably necessary to determine eligibility, the division may deny assistance under the hospital care for the indigent program. The pending expiration of the period specified in IC 12-16-6.5-1.5 is not a valid reason for denying a person's eligibility for the hospital care for the indigent program.

(b) Before denying assistance under the hospital care for the

indigent program, the division must provide the person and the provider who submitted a claim under IC 12-16-4.5-8.5 written notice of:

(1) the specific information or verification needed to determine eligibility;

(2) the specific efforts undertaken to obtain the information or verification; and

(3) the statute or rule requiring the information or verification identified under subdivision (1).

(c) The division must provide the provider who submitted a claim under IC 12-16-4.5-8.5 a period of time, not less than ten (10) days beyond the deadline established under IC 12-16-6.5-1.5, to submit to the division information concerning the person's eligibility. If the division does not make a determination of the person's eligibility within ten (10) days after receiving the information under this subsection, the person is eligible without the division's determination of the person's eligibility for the hospital care for the indigent care program under this article.

As added by P.L.120-2002, SEC.21. Amended by P.L.255-2003, SEC.29; P.L.145-2005, SEC.15; P.L.212-2007, SEC.20; P.L.218-2007, SEC.31.

IC 12-16-5.5-3.2

Denial of item or service claim; notice; item or service information

Sec. 3.2. (a) Subject to subsection (b) and IC 12-16-6.5-1.7, if the division is unable after prompt and diligent efforts to determine that a health care item or service identified in a claim:

(1) was necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) was a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

the division may deny assistance to the person under the hospital care for the indigent program for that item or service. The pending expiration of the period specified in IC 12-16-6.5-1.7 is not a valid reason for determining that an item or a service was not necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3), or was not a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(b) Before denying assistance under the hospital care for the indigent program for an item or a service described in subsection (a), the division must provide the provider of the item or service written notice of:

(1) the specific item or service in question; and

(2) an explanation of the basis for the division's inability to determine that the health care item or service was:

(A) necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(B) a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

including, if applicable, an explanation of the basis for a conclusion by the division that an item or service, in fact, was not necessitated by, or, as applicable, not a direct consequence of, one (1) or more of such medical conditions.

(c) The division must grant the provider of the item or service a period of time, not less than ten (10) days beyond the deadline under IC 12-16-6.5-1.7, to submit to the division information or materials bearing on whether the item or service was necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3), or was a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3). If the division does not make its determination regarding the item or service within ten (10) days after receiving information or materials provided for in this section, the item or service is considered, without the division's determination, to have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3), or to have been a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

As added by P.L.145-2005, SEC.16.

IC 12-16-5.5-4

Notification to person and provider; requirements

Sec. 4. The division shall notify in writing the person and the provider of the following:

(1) A decision concerning eligibility.

(2) The reasons for a denial of eligibility.

(3) That either party has the right to appeal the decision.

As added by P.L.120-2002, SEC.21. Amended by P.L.255-2003, SEC.30; P.L.212-2007, SEC.21; P.L.218-2007, SEC.32.

IC 12-16-5.5-5

Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-6
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-6.5

Chapter 6.5. Hospital Care for the Indigent; Denial of Eligibility; Appeals; Judicial Review

IC 12-16-6.5-1

Ineligibility determination; appeal to division

Sec. 1. If the division determines that a person is not eligible for assistance for services, an affected person, or provider may appeal to the division not later than ninety (90) days after the mailing of notice of that determination to the affected person or provider to the last known address of the person or provider.

As added by P.L.120-2002, SEC.22. Amended by P.L.255-2003, SEC.31; P.L.145-2005, SEC.17; P.L.212-2007, SEC.22; P.L.218-2007, SEC.33.

IC 12-16-6.5-1.2

Appeal; notice

Sec. 1.2. (a) If the division determines that an item or service identified in a claim:

(1) was not necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) was not a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

the affected person or provider may appeal to the division not later than ninety (90) days after the mailing of the notice of that determination to the affected person or provider to the last known address of the person or provider.

(b) If the division determines that an item or service identified in a claim:

(1) was necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) was a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

but the affected provider disagrees with the amount of the claim calculated by the division under IC 12-16-5.5-1.2(b), the affected provider may appeal the calculation to the division not later than ninety (90) days after the mailing of the notice of that calculation to the affected provider to the last known address of the provider.

As added by P.L.145-2005, SEC.18. Amended by P.L.212-2007, SEC.23; P.L.218-2007, SEC.34.

IC 12-16-6.5-1.5

Patient eligibility determination

Sec. 1.5. Subject to IC 12-16-5.5-3(c), if the division fails to

complete an investigation and determination of a person's eligibility for the hospital care for the indigent program not later than forty-five (45) days after receipt of the application filed under IC 12-16-4.5, the person is considered to be eligible without the division's determination of assistance under the program.
As added by P.L.145-2005, SEC.19.

IC 12-16-6.5-1.7
Item or service eligibility determination

Sec. 1.7. Subject to IC 12-16-5.5-3.2(c), if the division fails to complete an investigation and determination of one (1) or more health care items or services identified in a claim within forty-five (45) days after receipt of the claim filed under IC 12-16-4.5, the item or service is considered to have been:

(1) necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

As added by P.L.145-2005, SEC.20.

IC 12-16-6.5-2
Repealed

(Repealed by P.L.145-2005, SEC.31.)

IC 12-16-6.5-3
Hearing

Sec. 3. The division shall fix a time and place for a hearing before a hearing officer appointed by the director of the division.
As added by P.L.120-2002, SEC.22.

IC 12-16-6.5-4
Notice of hearing

Sec. 4. A notice of the hearing shall be served upon all persons interested in the matter, including any affected provider, at least twenty (20) days before the time fixed for the hearing.
As added by P.L.120-2002, SEC.22. Amended by P.L.255-2003, SEC.33; P.L.212-2007, SEC.24; P.L.218-2007, SEC.35.

IC 12-16-6.5-5
Determination of eligibility for assistance and health care items or services; entitled to assistance

Sec. 5. (a) If the division receives an application that was filed on behalf of a person under IC 12-16-4.5, the division shall determine:

(1) the eligibility of the person for assistance under the hospital care for the indigent program; and

(2) if the health care items or services provided to the person and identified in a claim filed with the division under IC 12-16-4.5 were:

(A) necessitated by at least one (1) medical condition listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(B) the direct consequence of at least one (1) of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(b) If:

(1) the person, initially or upon appeal, is found eligible for assistance; and

(2) at least one (1) of the items or services identified in the claim is determined initially or upon appeal:

(A) to have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(B) to be a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

the person is entitled to assistance for those items and services.

As added by P.L.120-2002, SEC.22. Amended by P.L.255-2003, SEC.34; P.L.145-2005, SEC.21.

IC 12-16-6.5-6

Appeal

Sec. 6. A person, hospital, physician, or transportation provider aggrieved by a determination of an appeal taken under section 1 or 1.2 of this chapter may appeal the determination under IC 4-21.5.

As added by P.L.120-2002, SEC.22. Amended by P.L.145-2005, SEC.22.

IC 12-16-6.5-7

Rules; administrative appeal procedure; provisions

Sec. 7. (a) The division shall adopt rules under IC 4-22-2 that provide for an administrative appeal procedure that is responsive to the needs of patients and providers.

(b) The procedure must provide for the following:

(1) The location of hearings.

(2) The presentation of evidence.

(3) The use of telecommunications.

As added by P.L.120-2002, SEC.22.

IC 12-16-6.5-8

Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-7
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-7.5

Chapter 7.5. Hospital Care for the Indigent; Cost of Care and Payment

IC 12-16-7.5-1

Repealed

(Repealed by P.L.145-2005, SEC.31.)

IC 12-16-7.5-1.2

Eligible patient not financially obligated; payment

Sec. 1.2. (a) A person determined to be eligible under the hospital care for the indigent program is not financially obligated for services provided to the person during the person's eligibility under the program, if the items or services were:

(1) identified in a claim filed with the division under IC 12-16-4.5; and

(2) determined:

(A) to have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(B) to be a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(b) Hospitals may receive a payment from the office calculated and made under IC 12-15-15-9 and, if applicable, IC 12-15-15-9.5. Hospitals shall not file claims for payments under IC 12-15-15-9 and IC 12-15-15-9.5 for payments attributable to state fiscal years beginning after June 30, 2007.

(c) Based on a physician's services identified in a claim under subsection (a), the physician may receive a payment from the division calculated and made under section 5 of this chapter.

(d) Based on the transportation services identified in a claim under subsection (a), the transportation provider may receive a payment from the division calculated and made under section 5 of this chapter.

As added by P.L.145-2005, SEC.23. Amended by P.L.212-2007, SEC.25; P.L.218-2007, SEC.36.

IC 12-16-7.5-2

Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-7.5-2.5

Segregation of payable claims by fiscal year; division determination of amount of payment

Sec. 2.5. (a) Payable claims shall be segregated by state fiscal year.

(b) For purposes of this chapter, IC 12-15-15-9, IC 12-15-15-9.5, and IC 12-16-14, "payable claim" refers to the following:

(1) Subject to subdivision (2), a claim for payment for physician

care, hospital care, or transportation services under this chapter:

(A) that includes, on forms prescribed by the division, all the information required for timely payment;

(B) that is for a period during which the person is determined to be financially and medically eligible for the hospital care for the indigent program; and

(C) for which the payment amounts for the care and services are determined by the division.

This subdivision applies for the state fiscal year ending June 30, 2004.

(2) For state fiscal years ending after June 30, 2004, and before July 1, 2007, a claim for payment for physician care, hospital care, or transportation services under this chapter:

(A) provided to a person under the hospital care for the indigent program under this article during the person's eligibility under the program;

(B) identified in a claim filed with the division; and

(C) determined to:

(i) have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(ii) be a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(3) For state fiscal years beginning after June 30, 2007, a claim for payment for physician care or transportation services under this chapter:

(A) provided to a person under the hospital care for the indigent program under this article during the person's eligibility under the program;

(B) identified in a claim filed with the division; and

(C) determined to:

(i) be necessary after the onset of a medical condition that was manifested by symptoms of sufficient severity that the absence of immediate medical attention would probably result in any of the outcomes described in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(ii) be a direct consequence of the onset of a medical condition that was manifested by symptoms of sufficient severity that the absence of immediate medical attention would probably result in any of the outcomes listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(c) For purposes of this chapter, IC 12-15-15-9, IC 12-15-15-9.5, and IC 12-16-14, "amount" when used in regard to a claim or payable claim means an amount calculated under STEP THREE of the following formula:

STEP ONE: Identify the items and services identified in a claim or payable claim.

STEP TWO: Using the applicable Medicaid fee for service reimbursement rates, calculate the reimbursement amounts for each of the items and services identified in STEP ONE.
STEP THREE: Calculate the sum of the amounts identified in STEP TWO.

(d) For purposes of this chapter, IC 12-15-15-9, IC 12-15-15-9.5, and IC 12-16-14, a provider that submits a claim to the division is considered to have submitted the claim during the state fiscal year during which the amount of the claim was determined under IC 12-16-5.5-1.2(b) or, if successfully appealed by a provider, the state fiscal year in which the appeal was decided.

(e) The division shall determine the amount of a claim under IC 12-16-5.5-1.2(b).

As added by P.L.255-2003, SEC.36. Amended by P.L.145-2005, SEC.24; P.L.1-2006, SEC.189; P.L.212-2007, SEC.26; P.L.218-2007, SEC.37.

IC 12-16-7.5-3
Warrant on fund; payment

Sec. 3. (a) A payment made to a physician or a transportation provider under this chapter must be on a warrant drawn on the state hospital care for the indigent fund established by IC 12-16-14.

(b) A payment made to a hospital under this chapter shall be made under IC 12-15-15-9 and IC 12-15-15-9.5.

As added by P.L.120-2002, SEC.23. Amended by P.L.255-2003, SEC.37.

IC 12-16-7.5-4
Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-7.5-4.5
Calculation and allocation of funds available for payments from the state hospital care for the indigent fund

Sec. 4.5. (a) Not later than October 31 following the end of each state fiscal year, the division shall:

(1) calculate for each county the total amount of payable claims submitted to the division during the state fiscal year attributed to:
  (A) patients who were residents of the county; and
  (B) patients:
    (i) who were not residents of Indiana;
    (ii) whose state of residence could not be determined by the division; and
    (iii) who were residents of Indiana but whose county of residence in Indiana could not be determined by the division;
  and whose medical condition that necessitated the care or service occurred in the county;

(2) notify each county of the amount of payable claims

attributed to the county under the calculation made under subdivision (1); and

(3) with respect to payable claims attributed to a county under subdivision (1):

(A) calculate the total amount of payable claims submitted during the state fiscal year for:

(i) each hospital;

(ii) each physician; and

(iii) each transportation provider; and

(B) determine the amount of each payable claim for each hospital, physician, and transportation provider listed in clause (A).

(b) For the state fiscal years beginning after June 30, 2005, but before July 1, 2007, and before November 1 following the end of a state fiscal year, the division shall allocate the funds transferred from a county's hospital care for the indigent fund to the state hospital care for the indigent fund under IC 12-16-14 during or for the following state fiscal years:

(1) For the state fiscal year ending June 30, 2006, as required under the following STEPS:

STEP ONE: Determine the total amount of funds transferred from all counties' hospital care for the indigent funds by the counties to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year.

STEP TWO: Of the total amount of payable claims submitted to the division during the state fiscal year from all counties under subsection (a), determine the amount that is the lesser of:

(A) the amount of total physician payable claims and total transportation provider payable claims; or

(B) three million dollars ($3,000,000).

The amount determined under this STEP shall be used by the division to make payments under section 5 of this chapter.

STEP THREE: Transfer an amount equal to the sum of:

(A) the non-federal share of the payments made under clause (A) of STEP FIVE of IC 12-15-15-1.5(b);

(B) the amount transferred under IC 12-15-20-2(8)(F); and

(C) the non-federal share of the payments made under IC 12-15-15-9 and IC 12-15-15-9.5;

to the Medicaid indigent care trust fund for funding the transfer to the office and the non-federal share of the payments identified in this STEP.

STEP FOUR: Transfer an amount equal to sixty-one million dollars ($61,000,000) less the sum of:

(A) the amount determined in STEP TWO; and

(B) the amount transferred under STEP THREE;

to the Medicaid indigent care trust fund for funding the non-federal share of payments under clause (B) of STEP FIVE of IC 12-15-15-1.5(b).

STEP FIVE: Transfer to the Medicaid indigent care trust

fund for the programs referenced at IC 12-15-20-2(8)(D)(vi) and funded in accordance with IC 12-15-20-2(8)(H) the amount determined under STEP ONE, less the sum of the amount:

(A) determined in STEP TWO;

(B) transferred in STEP THREE; and

(C) transferred in STEP FOUR.

(2) For the state fiscal year ending June 30, 2007, as required under the following steps:

STEP ONE: Determine the total amount of funds transferred from all counties' hospital care for the indigent funds by the counties to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year.

STEP TWO: Of the total amount of payable claims submitted to the division during the state fiscal year from all counties under subsection (a), determine the amount that is the lesser of:

(A) the amount of total physician payable claims and total transportation provider payable claims; or

(B) three million dollars ($3,000,000).

The amount determined under this STEP shall be used by the division for making payments under section 5 of this chapter or for the non-federal share of Medicaid payments for physicians and transportation providers, as determined by the office.

STEP THREE: Transfer an amount equal to the sum of:

(A) the non-federal share of five million dollars ($5,000,000) for the payment made under clause (A) of STEP FIVE of IC 12-15-15-1.5(b);

(B) the amount transferred under IC 12-15-20-2(8)(F); and

(C) the non-federal share of the payments made under IC 12-15-15-9 and IC 12-15-15-9.5;

to the Medicaid indigent care trust fund for funding the transfer to the office and the non-federal share of the payments identified in this STEP.

STEP FOUR: Transfer an amount equal to the amount determined under STEP ONE less the sum of:

(A) the amount determined in STEP TWO; and

(B) the amount transferred under STEP THREE;

to the Medicaid indigent care trust fund for funding the non-federal share of payments under clause (B) of STEP FIVE of IC 12-15-15-1.5(b).

(c) For the state fiscal years beginning after June 30, 2007, before November 1 following the end of the state fiscal year, the division shall allocate the funds transferred to the state hospital care for the indigent fund for the state fiscal year as required under the following STEPS:

STEP ONE: Determine the total amount of funds transferred to the state hospital care for the indigent fund for the state fiscal year.

STEP TWO: Determine the amount specified in STEP THREE.
STEP THREE: The amount to be used under STEP TWO is three million dollars ($3,000,000).
STEP FOUR: Transfer to the Medicaid indigent care trust fund for purposes of IC 12-15-20-2(8)(G) an amount equal to the amount calculated under STEP ONE, minus an amount equal to the amount specified under STEP THREE.
STEP FIVE: The division shall retain an amount equal to the amount remaining in the state hospital care for the indigent fund after the transfer in STEP FOUR for purposes of making payments under section 5 of this chapter or for the non-federal share of Medicaid payments for physicians and transportation providers, as determined by the office.

(d) The costs of administering the hospital care for the indigent program, including the processing of claims, shall be paid from the funds transferred to the state hospital care for the indigent fund.

As added by P.L.255-2003, SEC.38. Amended by P.L.212-2007, SEC.27; P.L.218-2007, SEC.38; P.L.146-2008, SEC.388.

IC 12-16-7.5-5
Pro rata payments to physicians and transportation providers; limitation

Sec. 5. Before December 15 following the end of each state fiscal year, the division shall, from the amounts combined from the counties' hospital care for the indigent funds and retained under section 4.5(b) or 4.5(c) of this chapter, pay each physician and transportation provider a pro rata part of that amount. The total payments available under this section may not exceed three million dollars ($3,000,000).

As added by P.L.120-2002, SEC.23. Amended by P.L.255-2003, SEC.39; P.L.212-2007, SEC.28; P.L.218-2007, SEC.39.

IC 12-16-7.5-6
Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-7.5-7
Responsibility for the payment of hospital care; limitations

Sec. 7. The division is not responsible under the hospital care for the indigent program for the payment of any part of the costs of providing care in a hospital to an individual who is not either of the following:

(1) A citizen of the United States.
(2) A lawfully admitted alien.

As added by P.L.120-2002, SEC.23. Amended by P.L.255-2003, SEC.40.

IC 12-16-7.5-8
No liability for cost of care provided to patient described in specified rules

Sec. 8. The division is not liable for any part of the cost of care provided to an individual who has been determined to be a patient described in the rules adopted under IC 12-16-10.5.
As added by P.L.120-2002, SEC.23. Amended by P.L.255-2003, SEC.41.

IC 12-16-7.5-9
Repealed
(Repealed by P.L.146-2008, SEC.819.)

IC 12-16-7.5-10
Repealed
(Repealed by P.L.146-2008, SEC.819.)

IC 12-16-7.5-11
Repealed
(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-7.5-12
Agreement to accept payment as payment in full
Sec. 12. All providers receiving payment under section 1.2 of this chapter agree to accept, as payment in full, the payment referred to in section 1.2 of this chapter for the health care items or services identified in payable claims submitted to the division.
As added by P.L.120-2002, SEC.23. Amended by P.L.145-2005, SEC.25.

IC 12-16-7.5-13
Repealed
(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-8
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-8.5
Repealed

(Repealed by P.L.212-2007, SEC.31; P.L.218-2007, SEC.52.)

IC 12-16-9
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-9.5

Chapter 9.5. Hospital Care for the Indigent; Rate of Payment

IC 12-16-9.5-1

Rate of payment for services and materials same as rates under Medicaid

Sec. 1. Notwithstanding any other provision of this article, the rate of payment for the services and materials provided by physicians and transportation providers under the hospital care for the indigent program is the same rate as payment for the same type of services and materials under the rules adopted by the office for the fee-for-service Medicaid program.

As added by P.L.120-2002, SEC.25. Amended by P.L.255-2003, SEC.42.

IC 12-16-9.5-2

Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-10
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-10.5

Chapter 10.5. Hospital Care for the Indigent; Rules

IC 12-16-10.5-1

Adopting rules; requisites

Sec. 1. The division shall, with the advice of the division's medical staff, the division of mental health and addiction, the division of aging, the division of disability and rehabilitative services, and other individuals selected by the director of the division, adopt rules under IC 4-22-2 to do the following:

(1) Provide for review and approval of services paid under the hospital care for the indigent program.

(2) Establish limitations consistent with medical necessity on the duration of services to be provided.

(3) Specify the amount of and method for reimbursement for services.

(4) Specify the conditions under which payments will be denied and improper payments will be recovered.

As added by P.L.120-2002, SEC.26. Amended by P.L.141-2006, SEC.58.

IC 12-16-10.5-2

Consistency of adopted rules with other Medicaid rules

Sec. 2. To the extent possible, rules adopted under section 1 of this chapter must be consistent with IC 12-15-21-2 and IC 12-15-21-3.

As added by P.L.120-2002, SEC.26.

IC 12-16-10.5-3

Rules denying payment for services to medically stable and safely discharged patients

Sec. 3. The rules adopted under section 1 of this chapter must include rules that will deny payment for services provided to a patient after the patient is medically stable and can safely be discharged.

As added by P.L.120-2002, SEC.26.

IC 12-16-10.5-4

Statewide data collection system; requirements; filing copies of submitted claims

Sec. 4. (a) The division shall adopt rules under IC 4-22-2 necessary to establish a statewide collection system of data concerning the hospital care for the indigent program.

(b) The following data must be collected:

(1) Patient demographics.

(2) Types of services provided by hospitals.

(3) Costs of particular types of services provided by hospitals.

(c) A hospital that provides services under the hospital care for the indigent program shall file copies of all claims submitted under the program with the contractor engaged by the division to adjudicate claims.

As added by P.L.120-2002, SEC.26.

IC 12-16-10.5-5
Rules for appeals; consistency with other rules

Sec. 5. The division may adopt rules under IC 4-22-2 that are in addition to and consistent with the rules required to be adopted under IC 12-16-6.5 governing appeals brought under the hospital care for the indigent program to the division.
As added by P.L.120-2002, SEC.26.

IC 12-16-10.5-6
Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-11
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-11.5

Chapter 11.5. Hospital Care for the Indigent; Recovery of Payments by Division

IC 12-16-11.5-1

Repealed

(Repealed by P.L.145-2005, SEC.31.)

IC 12-16-11.5-2

Repealed

(Repealed by P.L.145-2005, SEC.31.)

IC 12-16-11.5-3

Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-12
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-12.5
Repealed

(Repealed by P.L.212-2007, SEC.31; P.L.218-2007, SEC.52.)

IC 12-16-13
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-13.5

Chapter 13.5. Hospital Care for the Indigent; Immunity

IC 12-16-13.5-1

Limited immunity from liability

Sec. 1. A hospital, a physician, or an agent or employee of a hospital or physician that provides services in good faith under the hospital care for the indigent program is immune from liability to the extent the liability is attributable to at least one (1) of the following:

(1) The requirement that a patient be transferred under IC 12-16-12.5.

(2) The denial of payment under IC 12-16-10.5.

As added by P.L.120-2002, SEC.29.

IC 12-16-13.5-2

Liability not limited for determination that patient's medical condition permits transfer

Sec. 2. Section 1(1) of this chapter does not limit liability for the determination that the patient's medical condition permits a transfer under IC 12-16-12.5.

As added by P.L.120-2002, SEC.29.

IC 12-16-13.5-3

Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-14

Chapter 14. Hospital Care for the Indigent; Property Tax Levy and Funds

IC 12-16-14-1
Repealed

(Repealed by P.L.146-2008, SEC.819.)

IC 12-16-14-2
Repealed

(Repealed by P.L.146-2008, SEC.819.)

IC 12-16-14-3
Repealed

(Repealed by P.L.146-2008, SEC.819.)

IC 12-16-14-3.4
Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-14-3.7
Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-14-4
Repealed

(Repealed by P.L.146-2008, SEC.819.)

IC 12-16-14-5
Repealed

(Repealed by P.L.146-2008, SEC.819.)

IC 12-16-14-6
State hospital care for the indigent fund

Sec. 6. The state hospital care for the indigent fund is established.

As added by P.L.2-1992, SEC.10. Amended by P.L.146-2008, SEC.389.

IC 12-16-14-7
State fund components

Sec. 7. The state hospital care for the indigent fund includes the following:

(1) The money transferred to the state hospital care for the indigent fund from a county.

(2) Any contributions to the fund from individuals, corporations, foundations, or others for the purpose of providing hospital care for the indigent.

(3) The appropriations made to the fund by the general assembly.

As added by P.L.2-1992, SEC.10. Amended by P.L.146-2008,

SEC.390.

IC 12-16-14-8
Administration and use of state fund

Sec. 8. The division shall administer the state hospital care for the indigent fund and shall use the money currently in the fund to defray the expenses and obligations incurred by the division for hospital care for the indigent. The money in the fund is hereby appropriated.
As added by P.L.2-1992, SEC.10. Amended by P.L.126-1998, SEC.19.

IC 12-16-14-9
Reversion of state fund

Sec. 9. Money in the state hospital care for the indigent fund at the end of a state fiscal year remains in the fund and does not revert to the state general fund.
As added by P.L.2-1992, SEC.10.

IC 12-16-14-10
Repealed

(Repealed by P.L.80-1994, SEC.2.)

IC 12-16-14.1
Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-15
Repealed
(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-15.5
Repealed

(Repealed by P.L.146-2008, SEC.819.)

IC 12-16-16
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 12-16-16.5

Chapter 16.5. Hospital Care for the Indigent; Review of Medical Criteria

IC 12-16-16.5-1

Review by division of changes in medical criteria used in determining eligibility

Sec. 1. The division shall review changes made after 1985 in the medical criteria used to establish whether a patient is eligible for assistance under IC 12-16-3.5.

As added by P.L.120-2002, SEC.39.

IC 12-16-16.5-2

Review; requisites

Sec. 2. The division's review under this chapter must include the application of the criteria to specific cases and address whether changes to or clarification of the criteria is necessary so that, in practice, the criteria is consistent with the hospital care for the indigent program.

As added by P.L.120-2002, SEC.39.

IC 12-16-16.5-3

Report

Sec. 3. The division shall provide to an interested party a report of the division's review, including the division's findings, conclusions, and recommendations.

As added by P.L.120-2002, SEC.39.

IC 12-16-16.5-4

Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-17

Chapter 17. Health and Hospital Corporation of Marion County

IC 12-16-17-1

Annual transfer

Sec. 1. The office of the secretary of family and social services shall annually transfer forty million dollars ($40,000,000) to a hospital corporation established under IC 16-22-8 from the state general fund for the purposes of the hospital corporation.

As added by P.L.146-2008, SEC.391.

IC 12-16-17-2

Annual transfer made in four equal installments

Sec. 2. A transfer required in a calendar year under section 1 of this chapter shall be made in four (4) equal installments before April 30, July 31, September 30, and December 31.

As added by P.L.146-2008, SEC.391.

IC 12-16-17-3

Reduction in maximum permissible property tax levy

Sec. 3. The maximum permissible property tax levy that a hospital corporation established under IC 16-22-8 would otherwise be permitted to impose under IC 6-1.1-18.5-3 shall be reduced by thirty-five million dollars ($35,000,000) in a calendar year in which section 1 of this chapter provides for a transfer.

As added by P.L.146-2008, SEC.391.

IC 12-16.1

ARTICLE 16.1. REPEALED

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16.5

ARTICLE 16.5. THE HEALTH CARE COMPACT

IC 12-16.5-1

Chapter 1. Definitions

IC 12-16.5-1-1

"Commission"

Sec. 1. As used in this article, "commission" refers to the interstate advisory health care commission established by IC 12-16.5-4-1.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-1-2

"Compact"

Sec. 2. As used in this article, "compact" refers to the health care compact entered into under this article.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-1-3

"Current year inflation adjustment factor"

Sec. 3. As used in this article, "current year inflation adjustment factor" means the total gross domestic product deflator, as determined by the United States Department of Commerce's Bureau of Economic Analysis, in the current year divided by the total gross domestic product deflator in federal fiscal year 2010.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-1-4

"Health care"

Sec. 4. (a) As used in this article, "health care" means care, services, supplies, or plans related to the health of an individual, including the following:

(1) Preventative, diagnostic, therapeutic, rehabilitative, maintenance, and palliative care, including counseling, service, assessment, or procedure concerning the physical or mental condition or functional status of an individual or that affects the structure or function of the body.

(2) Sale or dispensing of a drug, device, equipment, or other item under a prescription.

(3) An individual or group health plan that provides or pays the costs of care, services, or supplies related to the health of an individual.

(b) The term does not include care, services, supplies, or plans provided:

(1) by the United States Department of Defense;

(2) by the United States Department of Veterans Affairs; or

(3) to Native Americans.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-1-5

"Member state"

Sec. 5. As used in this article, "member state" means a state that has adopted the health care compact law.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-1-6

"Member state base funding level"

Sec. 6. As used in this article, "member state base funding level" means a number determined by the member state to be equal to the total federal spending on health care in the member state during federal fiscal year 2010 and is set forth in IC 12-16.5-3-4.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-1-7

"Member state current year funding level"

Sec. 7. As used in this article, "member state current year funding level" means the member state base funding level multiplied by the member state current year population adjustment factor multiplied by the current year inflation adjustment factor.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-1-8

"Member state current year population adjustment factor"

Sec. 8. As used in this article, "member state current year population adjustment factor" means the average population of the member state in the current year, as determined by the United States Census Bureau, less the average population of the member state in federal fiscal year 2010, divided by the average population of the member state in federal fiscal year 2010 plus one (1).

As added by P.L.150-2012, SEC.1.

IC 12-16.5-2

Chapter 2. Applicability

IC 12-16.5-2-1

Effectiveness

Sec. 1. This article is effective upon the following:

(1) The adoption of the compact by at least two (2) member states.

(2) The consent of the federal United States Congress without changes by Congress to the following fundamental purposes of the compact:

(A) To secure the right of the member states to regulate health care in the member state's jurisdiction under the compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within the member state.

(B) To secure federal funding for member states that choose to invoke the member state's authority under the compact, as set forth in IC 12-16.5-3.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-3

Chapter 3. Health Care Compact

IC 12-16.5-3-1

Entrance into the compact; action and consent of Congress; improvement of health care policy

Sec. 1. (a) The governor may enter into the compact on behalf of the state with any other state only after the following occur:

(1) The budget committee reviews the compact and any plan developed under subdivision (2).

(2) The budget agency prepares a plan showing how Indiana will provide access to health care for Indiana residents under the compact.

(3) The budget agency presents the plan described in subdivision (2) to the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4.

(b) The member states shall take joint and separate action to secure the consent of the United States Congress for the compact in order to return the authority to regulate health care to the member states that is consistent with the goals and principles articulated in the compact.

(c) The member states shall improve health care policy within the states' jurisdictions and according to the judgment and discretion of each member state.

As added by P.L.150-2012, SEC.1. Amended by P.L.53-2014, SEC.108.

IC 12-16.5-3-2

State legislature with primary responsibility to regulate health care

Sec. 2. The state legislature of each member state has the primary responsibility to regulate health care in the member state's jurisdiction.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-3-3

Suspension of federal law through express acts; responsibility for implementation

Sec. 3. (a) Each member state, for the member state's jurisdiction, may, to the extent allowed under the Constitution of the United States and the constitution of the member state, suspend by legislation federal laws, regulations, and orders concerning health care that are inconsistent with the laws and regulations adopted by the member state under the compact.

(b) Any federal or state law, regulation, or order concerning health care will remain in effect unless a member state expressly suspends the law, regulation, or order under the member state's authority under the compact.

(c) The member state shall be responsible for implementing any federal law, rule, regulation, or order described in this section that

remains in effect in the member state.
As added by P.L.150-2012, SEC.1.

IC 12-16.5-3-4
Right to federal monies; establishment of funding level

Sec. 4. (a) Each member state for each federal fiscal year shall have the right to federal monies in an amount up to the member state current year funding level for the current year, funded by the federal government as mandatory spending and that is not subject to annual appropriation, to support the exercise of the member state authority under the compact. The funding may not be conditional on any action of or regulation, policy, law, or rule that is being adopted by the member state and that is allowed under the Constitution of the United States and the constitution of the member state.

(b) By the start of each federal fiscal year, the federal United States Congress shall establish an initial member state current year funding level for each member state. The initial member state current year funding level must be based on a reasonable estimate. The final member state current year funding level shall be calculated and funding shall be reconciled by the federal United States Congress based on information provided by each member state and audited by the United States Government Accountability Office.
As added by P.L.150-2012, SEC.1.

IC 12-16.5-3-5
Funding of commission

Sec. 5. The member states may fund the commission in a manner agreed upon by the member states.
As added by P.L.150-2012, SEC.1.

IC 12-16.5-3-6
Amendment of compact by unanimous agreement

Sec. 6. The member states may, by unanimous agreement, amend the compact without the prior consent or approval of the federal United States Congress, to the extent the amendment is allowed under the Constitution of the United States and the constitutions of the member states. Any amendment shall be effective unless, not later than one (1) year from the approval of the amendment, the federal United States Congress disapproves of the amendment.
As added by P.L.150-2012, SEC.1.

IC 12-16.5-3-7
Joining of compact by other states

Sec. 7. Any state may join the compact after the date of consent of the compact by the federal United States Congress if the state adopts the compact into law.
As added by P.L.150-2012, SEC.1.

IC 12-16.5-3-8
Withdrawal from compact requirements; liability

Sec. 8. (a) A member state may withdraw from the compact by doing the following:

(1) The member state's governor notifies other member states of the intent to withdraw from the compact at least six (6) months before the withdrawal may occur.

(2) The member state's legislature adopts legislation to withdraw from the compact.

(b) A member state withdrawing from the compact is liable for any obligations that the withdrawing state may have incurred prior to the date of which the withdrawal is effective.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-3-9

Dissolution of compact after withdrawal

Sec. 9. The compact shall be dissolved upon the withdrawal from the compact of all but one (1) member state.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-4

Chapter 4. Interstate Advisory Health Care Commission

IC 12-16.5-4-1

Establishment of interstate advisory health care commission

Sec. 1. (a) The interstate advisory health care commission is established.

(b) The commission consists of members appointed by each member state in a manner determined by each member state. A member state may not appoint more than two (2) members to the commission and may withdraw membership from the commission at any time.

(c) Each commission member is entitled to one (1) vote. The commission may not act unless a majority of the members are present, and an action is not binding unless approved by a majority of the commission's total membership.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-4-2

Commission duties; action

Sec. 2. (a) The commission may do the following:

(1) Elect a chairperson from the commission's membership.

(2) Adopt and publish bylaws and policies that are consistent with the compact.

(3) Study issues of health care regulation that are of concern to the member states.

(4) Make non-binding recommendations to the member states, of which the state legislatures of the member states may consider in determining appropriate health care policies for the member state.

(b) The commission shall do the following:

(1) Meet at least one (1) time per calendar year.

(2) Collect information and data to assist member states in the regulation of health care, including assessing the performance of state health care programs and compiling information on the prices of health care.

(c) The commission shall make the information collected under this section available to the legislatures of member states.

(d) Legislatures of the member states may confer additional responsibilities and duties on the commission through legislative action in accordance with the terms of the compact.

(e) The commission may not take any action within a member state.

As added by P.L.150-2012, SEC.1.

IC 12-16.5-4-3

Prohibition on disclosure of personal health information of an individual

Sec. 3. A member state may not disclose personal health information of an individual to the commission. The commission may

not disclose the personal health information of an individual.
As added by P.L.150-2012, SEC.1.

IC 12-16.5-5

Chapter 5. Participation in Compact

IC 12-16.5-5-1

Compact participation exclusion of Medicare unless expressly authorized

Sec. 1. Indiana's participation in the compact does not include the administration of Medicare (42 U.S.C. 1395 et seq.) unless the General Assembly takes action that specifically authorizes inclusion of the Medicare program in the compact.

As added by P.L.150-2012, SEC.1.

IC 12-17

ARTICLE 17. CHILDREN'S SERVICES

IC 12-17-1

Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-17-2
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-17-3
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-17-4
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-17-5
Repealed

(Repealed by P.L.1-1993, SEC.135.)

IC 12-17-6
Repealed

(Repealed by P.L.61-1993, SEC.67.)

IC 12-17-7
Repealed

(Repealed by P.L.136-1993, SEC.24.)

IC 12-17-8
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-17-9
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-17-10
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-17-11
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-17-12

Chapter 12. School Age Child Care Project Fund

IC 12-17-12-0.3

School age child care project fund; rules of the interdepartmental board for the coordination of human services programs

Sec. 0.3. (a) The school age child care project fund established by IC 20-5-61 (before its repeal) is a continuation of the school age child care project fund established by P.L.197-1985.

(b) Rules adopted by the interdepartmental board for the coordination of human service programs to govern the operation of the school age child care project fund established by P.L.197-1985 continue in effect until new rules are adopted under IC 20-5-61 (before its repeal) or under this chapter.

As added by P.L.220-2011, SEC.267.

IC 12-17-12-1

"Applicant" defined

Sec. 1. As used in this chapter, "applicant" means either:

(1) a school corporation; or

(2) a nonprofit organization that:

(A) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) has provided extracurricular activities or services to children continuously for at least one (1) year before the date of application for a grant under this chapter;

that applies to the division of family resources for a grant from the school age child care fund for the purpose of establishing and operating a school age child care program or for the purpose of maintaining an existing school age child care program.

As added by P.L.2-1992, SEC.11. Amended by P.L.145-2006, SEC.88.

IC 12-17-12-2

"Contribution" defined

Sec. 2. As used in this chapter, "contribution" includes providing a facility, personnel, transportation, or supplies that will be used in operating a program.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-3

"Facility" defined

Sec. 3. As used in this chapter, "facility" means a school or other building in which a school age child care program is operated.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-4

"Fund" defined

Sec. 4. As used in this chapter, "fund" refers to the school age child care project fund established by this chapter.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-5
"School age child care program" defined

Sec. 5. As used in this chapter, "school age child care program" means a program operated by a school corporation or a nonprofit organization that offers care to children who are at least five (5) years of age but less than fifteen (15) years of age for the following periods of time:

(1) Before or after the school day, or both.
(2) When school is not in session.
(3) When school is in session for students who are enrolled in a half-day kindergarten program.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-6
"School corporation" defined

Sec. 6. As used in this chapter, "school corporation" has the meaning set forth in IC 20-18-2-16.

As added by P.L.2-1992, SEC.11. Amended by P.L.1-2005, SEC.133.

IC 12-17-12-7
Establishment of fund; purpose; administration

Sec. 7. The school age child care project fund is established. The fund consists of money appropriated under IC 6-7-1-30.2(c). The purpose of the fund is to provide a source from which state grants may be made to school corporations or nonprofit organizations that establish and operate school age child care programs in Indiana. The division shall administer the fund.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-8
Administration expenses

Sec. 8. The expenses of administering the fund shall be paid from money in the fund.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-9
Investments

Sec. 9. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from the investments shall be deposited in the fund.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-10
Reversion

Sec. 10. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-11
Grants; approval criteria

Sec. 11. The division may approve a grant from the fund to an applicant if the applicant demonstrates to the division that the applicant is able to do the following:

(1) Provide a physical environment that is safe and appropriate to the various age levels of the children to be served.

(2) Provide transportation, if necessary, to and from a school or schools to the facility operated by the applicant.

(3) Provide program activities that are appropriate to the various age levels of the children to be served and that meet the developmental needs of each child.

(4) Provide efficient and effective program administration.

(5) Provide a staff that meets standards set by the division under section 17 of this chapter.

(6) Provide for nutritional needs of children enrolled in the program.

(7) Provide emergency health services to children served by the program.

(8) Operate a school age child care program in accordance with the cost and expense standards set by the division under section 17 of this chapter.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-12
Program enrollment priorities

Sec. 12. The division may not approve a grant from the fund to an applicant unless the applicant agrees to adopt the following program enrollment priorities:

(1) First priority must be given to children who are referred to a program by the department of child services under IC 31-33 (or IC 31-6-11 before its repeal). Within this priority, children in families with the lowest gross monthly income compared to other children in this priority level must be enrolled first.

(2) Second priority must be given to children in kindergarten and grades 1 through 3 and the children's siblings if the children's families need school age child care services because of:

(A) enrollment of a child's legal custodian in vocational training under a degree program;

(B) employment of a child's legal custodian; or

(C) physical or mental incapacitation of a child's legal custodian.

(3) Third priority must be given to children in grades 4 through 9 if the children's families need school age child care services because of:

(A) enrollment of a child's legal custodian in vocational training under a degree program;

(B) employment of a child's legal custodian; or

(C) physical or mental incapacitation of a child's legal

custodian.

As added by P.L.2-1992, SEC.11. Amended by P.L.1-1997, SEC.65; P.L.234-2005, SEC.33.

IC 12-17-12-13
Fee schedules prerequisite

Sec. 13. The division may not approve a grant from the fund to an applicant unless the applicant agrees to adopt fee schedules based upon a sliding income scale set by the division under section 17 of this chapter.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-14
Facility standards

Sec. 14. The division may not approve a grant from the fund to an applicant that is planning to use a facility not located in a school, unless the applicant's facility meets the following:

(1) Standards for sanitation that are adopted by the director of the division.

(2) Standards for fire safety that are adopted by the division of fire and building safety.

As added by P.L.2-1992, SEC.11. Amended by P.L.1-2006, SEC.190.

IC 12-17-12-15
Applications

Sec. 15. An applicant who desires to apply for a grant from the fund must apply to the division in the manner prescribed by the division under section 17 of this chapter.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-16
Purpose and amount of grants

Sec. 16. The division may make grants from the fund to approved applicants for the establishment and maintenance of a school age child care program. The amount of each grant awarded by the division must be an amount that is not more than nine (9) times the monetary value of the approved applicant's contribution. The amount granted by the division for use by a single program may not exceed forty thousand dollars ($40,000).

As added by P.L.2-1992, SEC.11.

IC 12-17-12-17
Administrative rules

Sec. 17. The director of the division shall adopt rules under IC 4-22-2 necessary to carry out this chapter, including rules specifying the following:

(1) Standards for the hiring of staff for a school age child care program.

(2) Cost and expense standards for establishing and operating a school age child care program within a school and within a

facility other than a school.
(3) A sliding fee scale for use by school age child care programs that are operating under a grant from the fund.
(4) Minimum staff to child ratios for a school age child care program.
(5) Physical space requirements for a school age child care program, including indoor and outdoor space.
(6) Nutrition requirements for a school age child care program.
(7) Standards for the provision of emergency health services in a school age child care program.
(8) Application guidelines and deadlines.
(9) A method for establishing priority of applicants.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-18
Annual report

Sec. 18. The division shall annually report to the governor and the general assembly the following information:
(1) The number of applicants for grants from the fund.
(2) The number of grants awarded by the division.
(3) Amounts left in the fund on June 30 of each year.
(4) Other information requested by the governor or the general assembly.

A report under this section to the general assembly must be in an electronic format under IC 5-14-6.

As added by P.L.2-1992, SEC.11. Amended by P.L.28-2004, SEC.106.

IC 12-17-12-19
Fire safety rules

Sec. 19. The state fire marshal shall adopt rules under IC 4-22-2 to govern fire safety in school age child care programs.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-20
Sanitation rules

Sec. 20. The director of the division shall adopt rules under IC 4-22-2 to govern sanitation in school age child care programs.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-21
Review of program; recommendations

Sec. 21. During 1992 a committee of the general assembly shall review the need to continue the school age child care program. The committee shall submit the committee's recommendations to the general assembly before October 15, 1992.

As added by P.L.2-1992, SEC.11.

IC 12-17-12-22
Repealed

(Repealed by P.L.20-1992, SEC.46.)

IC 12-17-13

Chapter 13. Grants to Preschool Programs

IC 12-17-13-1

"Applicant" defined

Sec. 1. As used in this chapter, "applicant" means an organization that applies to the division for a grant for either of the following purposes:

(1) To establish and operate a preschool child care program.

(2) To maintain an existing preschool child care program.

As added by P.L.2-1992, SEC.11.

IC 12-17-13-2

"Facility" defined

Sec. 2. As used in this chapter, "facility" means a school or other building in which a preschool child care program is operated.

As added by P.L.2-1992, SEC.11.

IC 12-17-13-3

"Preschool child care program" defined

Sec. 3. As used in this chapter, "preschool child care program" means a program operated by an organization that offers care to children who are:

(1) less than six (6) years of age; and

(2) not eligible to enroll in a public school.

As added by P.L.2-1992, SEC.11.

IC 12-17-13-4

Applications for federal and state funds

Sec. 4. The division may apply for federal and state money to assist applicants under this chapter.

As added by P.L.2-1992, SEC.11.

IC 12-17-13-5

Approval of grant; requisites

Sec. 5. The division may approve a grant to an applicant if the applicant demonstrates to the division that the applicant can do the following:

(1) Provide a physical environment that is safe and appropriate to the various age levels of the children to be served.

(2) Meet licensing standards required under IC 12-17.2 and IC 31-27.

(3) If necessary, provide transportation to and from the facility operated by the applicant.

(4) Provide program activities that are appropriate to the various age levels of the children to be served and that meet the developmental needs of each child.

(5) Provide efficient and effective program administration.

(6) Provide a staff that meets standards set by the division under this chapter.

(7) Provide for nutritional needs of children enrolled in the program.

(8) Provide emergency health services to children served by the program.

(9) Operate a preschool child care program in accordance with the cost and expense standards set by the division under this chapter.

As added by P.L.2-1992, SEC.11. Amended by P.L.20-1992, SEC.27 and P.L.81-1992, SEC.30; P.L.1-1993, SEC.140; P.L.145-2006, SEC.89.

IC 12-17-13-6

Agreements for low income family service and sliding scale fee schedules

Sec. 6. The division may not approve a grant to an applicant unless the applicant agrees to do both of the following:

(1) Serve children whose family income does not exceed one hundred fifty percent (150%) of the official poverty income guidelines established by the Office of Management and Budget, as revised periodically by the United States Secretary of Health and Human Services under 42 U.S.C. 9902(2) for use in community services block grant programs.

(2) Adopt fee schedules based upon a sliding scale set by the division under this chapter.

As added by P.L.2-1992, SEC.11.

IC 12-17-13-7

Necessity for application

Sec. 7. An applicant that desires to apply for a grant must apply to the division as prescribed by this chapter.

As added by P.L.2-1992, SEC.11.

IC 12-17-13-8

Reapplication in following fiscal year

Sec. 8. An applicant that receives a grant in a fiscal year and desires to receive a grant in the following fiscal year must reapply as prescribed by this chapter.

As added by P.L.2-1992, SEC.11.

IC 12-17-13-9

Administrative rules

Sec. 9. The director of the division may adopt rules under IC 4-22-2 to carry out this chapter, including rules specifying the following:

(1) Standards for the hiring of staff for a preschool child care program.

(2) Cost and expense standards for the establishment and operation of a preschool child care program within a school and within a facility other than a school.

(3) A sliding fee scale for use by preschool child care programs

that are operating under a grant under this chapter.

(4) Minimum staff to child ratios for a preschool child care program.

(5) Physical space requirements for a preschool child care program, including indoor and outdoor space.

(6) Nutrition requirements for a preschool child care program.

(7) Standards for the provision of emergency health services in a preschool child care program.

(8) Application guidelines and deadlines.

(9) A method for establishing priority of applicants.

As added by P.L.2-1992, SEC.11.

IC 12-17-14
Repealed

(Repealed by P.L.21-1992, SEC.16.)

IC 12-17-15
Repealed
(Repealed by P.L.93-2006, SEC.19.)

IC 12-17-16
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-17-17
Repealed
(Repealed by P.L.128-2012, SEC.15.)

IC 12-17-18
Repealed

(Repealed by P.L.273-1999, SEC.181.)

IC 12-17-19

Chapter 19. Step Ahead Comprehensive Early Childhood Grant Program

IC 12-17-19-1

"Convener"

Sec. 1. As used in this chapter, "convener" means:

(1) an organization that:

(A) is nonprofit;

(B) is nongovernmental;

(C) is not religiously affiliated;

(D) operates countywide; and

(E) serves multiple agencies;

(2) a school corporation (as defined in IC 20-18-2-16); or

(3) another entity approved by the panel.

As added by P.L.1-2005, SEC.32.

IC 12-17-19-2

"Coordination grant"

Sec. 2. As used in this chapter, "coordination grant" refers to a step ahead grant awarded to initiate the development of a step ahead proposal.

As added by P.L.1-2005, SEC.32.

IC 12-17-19-3

"Eligible entity"

Sec. 3. As used in this chapter, "eligible entity" means any of the following:

(1) A school corporation (as defined in IC 20-18-2-16).

(2) An organization approved by the panel.

(3) A combination of eligible entities described in subdivisions (1) and (2) under a cooperative agreement among the eligible entities.

As added by P.L.1-2005, SEC.32.

IC 12-17-19-4

"Eligible program"

Sec. 4. As used in this chapter, "eligible program" means a federal, state, local, or private program or service that serves, assists, or otherwise benefits a child and is approved by the governor and the panel under guidelines developed under section 18 of this chapter. The term includes the following programs or services:

(1) Child care.

(2) Preschool, including special education preschool.

(3) Parent information, including parents as teachers programs.

(4) School age child care (commonly referred to as latch key) as described in IC 12-17-12-5 and IC 20-26-5-1(c), including latch key services for kindergarten students.

(5) Early identification and early intervention.

(6) Maternal and child nutrition.

(7) Health and screening.
As added by P.L.1-2005, SEC.32.

IC 12-17-19-5
"Implementation grant"

Sec. 5. (a) As used in this chapter, "implementation grant" refers to a step ahead grant that is awarded to a step ahead county to provide financial assistance to eligible entities providing eligible programs.

(b) The term includes the use of available state appropriations and available federal funds, including federal funds received under the Child Care and Development Block Grant under 42 U.S.C. 9858 et seq.
As added by P.L.1-2005, SEC.32.

IC 12-17-19-6
"Income eligibility guidelines"

Sec. 6. As used in this chapter, "income eligibility guidelines" refers to the income eligibility guidelines prescribed by the panel under section 18 of this chapter.
As added by P.L.1-2005, SEC.32.

IC 12-17-19-7
"Panel"

Sec. 7. As used in this chapter, "panel" refers to the step ahead statewide panel established by section 14 of this chapter.
As added by P.L.1-2005, SEC.32.

IC 12-17-19-8
"Parent"

Sec. 8. As used in this chapter, "parent" means an individual who has legal custody of a child.
As added by P.L.1-2005, SEC.32.

IC 12-17-19-9
"Step ahead"

Sec. 9. As used in this chapter, "step ahead" refers to the step ahead comprehensive early childhood grant program established by section 11 of this chapter.
As added by P.L.1-2005, SEC.32.

IC 12-17-19-10
"Step ahead county"

Sec. 10. As used in this chapter, "step ahead county" refers to a county in which an eligible entity has been awarded coordination and implementation grants. The term may include more than one (1) county as provided in section 18 of this chapter.
As added by P.L.1-2005, SEC.32.

IC 12-17-19-11
Establishment of program; purpose; administration of Child Care

and Development Block Grant; state funding

Sec. 11. (a) The step ahead comprehensive early childhood grant program is established to provide financial assistance and other incentives to eligible entities to implement, coordinate, and monitor eligible programs countywide.

(b) The division shall administer the Child Care and Development Block Grant under 42 U.S.C. 9858 et seq. received by the division in accordance with the guidelines established by the panel under section 18 of this chapter.

(c) The panel shall use available state funds to the extent the general assembly makes an appropriation under this chapter.

As added by P.L.1-2005, SEC.32.

IC 12-17-19-12

Unexpended money does not revert to general fund

Sec. 12. Unexpended money appropriated from the state general fund to carry out the purposes of this chapter does not revert to the state general fund at the end of a state fiscal year.

As added by P.L.1-2005, SEC.32.

IC 12-17-19-13

Goals of program

Sec. 13. The goals of step ahead are to:

(1) identify and recognize the various eligible programs available in each county at federal, state, local, and private levels;

(2) encourage coordination and cooperation among the eligible programs described in subdivision (1) and to discourage duplication of services;

(3) provide comprehensive eligible programs countywide that are accessible to all eligible children and affordable to the children's parents;

(4) recognize the specific service needs of and unique resources available to particular counties, develop statewide resource listings, and incorporate flexibility regarding the implementation of eligible programs;

(5) prevent or minimize the potential for developmental delay in children before the children reach the age of compulsory school attendance under IC 20-33-2;

(6) enhance certain federally funded eligible programs;

(7) strengthen the family unit through:

(A) encouragement of parental involvement in a child's development and education;

(B) prevention of disruptive employment conditions for parents who are employed; and

(C) enhancement of the capacity of families to meet the special needs of their children, including those children with disabilities;

(8) reduce the educational costs to society by reducing the need for special education services after children reach school age;

(9) ensure that children with disabilities are integrated, when appropriate, into programs available to children without disabilities; and

(10) ensure that every child who enrolls in kindergarten in Indiana has benefited since birth from eligible programs available under step ahead.

As added by P.L.1-2005, SEC.32. Amended by P.L.99-2007, SEC.97.

IC 12-17-19-14

Step ahead statewide panel; establishment; membership; chairperson

Sec. 14. (a) The step ahead statewide panel is established to implement the step ahead program.

(b) The panel consists of the following members:

(1) Six (6) members who:

(A) are appointed by and serve at the pleasure of the governor; and

(B) are selected from representatives of the following state agencies:

(i) Division of mental health and addiction.

(ii) State department of health.

(iii) The division.

(iv) Budget agency.

(v) Division of aging and rehabilitative services.

(vi) Department of education.

(vii) Executive staff of the lieutenant governor with knowledge in the area of employment and training programs.

(viii) Executive staff of the governor.

(2) Five (5) members who:

(A) are appointed by and serve at the pleasure of the governor;

(B) are representative of the private sector; and

(C) are knowledgeable in the field of early childhood development.

(3) Four (4) members who:

(A) are appointed by and serve at the pleasure of the state superintendent of public instruction; and

(B) are knowledgeable in early childhood education.

(4) One (1) member who:

(A) is appointed by and serves at the pleasure of the governor; and

(B) serves as the chairperson of the panel.

As added by P.L.1-2005, SEC.32.

IC 12-17-19-15

Compensation of panel members

Sec. 15. (a) The members of the panel who are state employees are entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided

in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the panel who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member who is not a state employee is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.1-2005, SEC.32.

IC 12-17-19-16

Panel utilization of division personnel

Sec. 16. The panel may use the personnel employed by the division to assist the panel in implementing this chapter.

As added by P.L.1-2005, SEC.32.

IC 12-17-19-17

Rules

Sec. 17. The panel may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.1-2005, SEC.32.

IC 12-17-19-18

Panel powers and duties

Sec. 18. (a) The panel shall do the following:

(1) Establish guidelines to implement this chapter that comply with the regulations governing the distribution of the Child Care and Development Block Grant under 42 U.S.C. 9858 et seq., including guidelines on the following:

(A) Subject to the requirements under sections 20 and 22 of this chapter, the content of the application and step ahead proposal.

(B) The types of early childhood programs that are eligible programs.

(C) Income eligibility guidelines for parents who are unable to afford the services provided by eligible entities.

(D) Subject to the availability of funds, a schedule for awarding coordination and implementation grants and the criteria used to award those grants under this chapter, including the following:

(i) The degree to which available eligible programs are coordinated within the county under the proposal.

(ii) The extent of community commitment to step ahead initiatives.

(iii) The relative need for the county to become a step ahead county.

(iv) The extent to which multiple eligible programs and services are collocated throughout the county, including public schools.

(v) The extent to which the school corporations within the county cooperate in step ahead initiatives.

(vi) The quality reflected by comprehensive programming for preschool services and the commitment to consistent staff training opportunities.

(vii) The extent to which proposed eligible programs provide integrated programs for children with disabilities and children without disabilities.

(E) Any limitations in the expenditure of step ahead grants.

(F) Requirements for grant recipients or the step ahead county coordinator to report on the implementation of the step ahead programs within the county.

(G) The distribution of federal funds, including the Child Care and Development Block Grant under 42 U.S.C. 9858 et seq., and other available funds to eligible programs.

(H) Any other pertinent matter.

(2) Develop minimum standards for eligible programs.

(3) Review each step ahead application for a coordination grant and each proposal for an implementation grant submitted by the convener.

(4) Approve those proposals that comply with this chapter.

(5) Conduct the assessments of step ahead programs under section 24 of this chapter.

(6) Monitor the overall implementation of step ahead, encourage the collaboration through the department of education's early childhood division to promote consistency in state efforts for young children, and report to the governor on the implementation of step ahead.

(7) Any other task to facilitate the implementation of step ahead.

(b) The panel may contract for services to assist in the implementation of the step ahead program.

(c) The panel may designate as a step ahead county and step ahead grant recipient more than one (1) county if the participating counties:

(1) are contiguous to each other; and

(2) agree to jointly comply with this chapter.

As added by P.L.1-2005, SEC.32. Amended by P.L.99-2007, SEC.98.

IC 12-17-19-19

Child care services bureau contracts; advance funding provisions

Sec. 19. Notwithstanding IC 4-13-2-20 and IC 12-8-10-7 and in addition to the authorization to enter into contracts for services under section 18(b) of this chapter, a contract issued by the division for programs administered by the bureau of child care services, including a contract for the administration of the programs authorized under IC 12-12.7-2 and this chapter, may include a provision for advance funding if the provision is not inconsistent with the terms of any applicable federal law or regulation and any of the following conditions is met:

(1) The annual contract amount is at least fifty thousand dollars ($50,000) and the advance funding is not more than one-sixth

(1/6) of the contract amount.

(2) The annual contract amount is less than fifty thousand dollars ($50,000) and the advance funding is not more than one-half (1/2) of the contract amount.

(3) The advance funding is in the form of interim payments, with subsequent reconciliation of the amounts paid under the contract and the cost of the services actually provided.

As added by P.L.1-2005, SEC.32. Amended by P.L.93-2006, SEC.12.

IC 12-17-19-20

Requirements for receipt of coordination grant

Sec. 20. In order for the eligible entities in a county to receive a coordination grant, the following must occur:

(1) One (1) convener located within the county must submit to the panel, on or before August 1 of a year and under an agreement by the eligible entities in the county, an application for a coordination grant that:

(A) designates a step ahead county coordinator to facilitate the development of the proposal;

(B) designates a fiscal agent to receive the coordination grant; and

(C) includes any other information required under the guidelines.

(2) Upon review of each application, the panel shall designate each step ahead county and shall award a coordination grant to the fiscal agent described in subdivision (1).

As added by P.L.1-2005, SEC.32.

IC 12-17-19-21

Receipt of coordination grant; development and submission of implementation proposal

Sec. 21. Upon receipt of a coordination grant, the step ahead county coordinator shall initiate the development of a detailed proposal to qualify for an implementation grant. The step ahead county coordinator shall submit the proposal to the panel on or before December 31 of the year in which the application is submitted.

As added by P.L.1-2005, SEC.32.

IC 12-17-19-22

Implementation proposal; requirements

Sec. 22. The proposal submitted under section 21 of this chapter must comply with the following minimum requirements:

(1) Include a detailed description of the manner in which the eligible programs available within the county are to be implemented, coordinated, and monitored.

(2) Certify that each eligible entity shall request and obtain a limited criminal history on each prospective employee hired by the eligible entity.

(3) Designate a fiscal agent to administer the implementation grant.

(4) Demonstrate how at least the following eligible programs may be offered, coordinated, and monitored within the entire county under an agreement with the providers of the following eligible programs:

(A) Preschool, including Head Start under 42 U.S.C. 9831 et seq., special education preschool, or developmental child care programs for preschool children.

(B) Child care programs.

(C) The Early and Periodic Screening, Diagnosis, and Treatment program under 42 U.S.C. 1396 et seq.

(D) Early intervention parent information programs.

(E) Individual family service plans.

(F) School age child care programs (commonly referred to as latch key programs).

(G) Student reading skills improvement grants under 20 U.S.C. 6361 et seq.

(H) Parental involvement programs.

(I) Child care programs aimed at serving children of teenage parents to encourage the teenage parents to graduate from high school or participate in vocational training.

(J) Vocational training programs for unemployed parents.

(K) Health, nutrition, and vaccination programs.

(L) State medical assistance services for eligible individuals under IC 12-15.

(5) Certify that the eligible programs described in subdivision (4) are provided at no cost to parents of children who qualify under the income eligibility guidelines and at an affordable or sliding fee for other parents.

(6) Describe the manner in which the implementation grant will be directed to and expended by eligible programs.

As added by P.L.1-2005, SEC.32.

IC 12-17-19-23

Distribution of implementation grants; priority for continued state funding

Sec. 23. (a) The fiscal agent for the implementation grant may distribute the implementation grant received under this chapter in accordance with the approved proposal.

(b) If an eligible entity received state funds to implement an eligible program before becoming a step ahead eligible program, the eligible entity shall be given priority with regard to receiving continued state funding to implement the eligible program under this chapter with no break in continuity of service from the prior year.

As added by P.L.1-2005, SEC.32.

IC 12-17-19-24

Assessment of programs and services

Sec. 24. (a) To evaluate the effectiveness of step ahead as the program relates to the step ahead goals listed in section 13 of this chapter, the panel shall employ the following assessment

mechanisms:

(1) The step ahead county coordinator shall annually report to the panel on the development, quality, and appropriateness of the individual family service plans for children whose parents qualify under the income eligibility guidelines.

(2) The step ahead county coordinator shall annually report to the panel on the number of children who:

(A) are using step ahead services; and

(B) do not qualify under the income eligibility guidelines.

(3) The panel shall annually assess the results of any readiness program established by the department of education for students in kindergarten and grade 1 to determine whether children enrolling in school after benefiting from step ahead demonstrate greater readiness for learning. The department of education shall cooperate with the panel in this regard by assisting in defining the term "readiness" and supporting the evaluation based on knowledge and training in early childhood.

(4) Any other valid assessment technique or method approved by the panel.

(b) The panel shall implement a schedule for assessing step ahead programs, using prior evaluation results and techniques learned through the department of education's pilot preschool programs.

As added by P.L.1-2005, SEC.32. Amended by P.L.286-2013, SEC.8.

IC 12-17-19-25

Developmental child care programs for preschool children

Sec. 25. (a) Each step ahead proposal must provide for the implementation of a preschool or developmental child care program for preschool children.

(b) The goals of the preschool or developmental child care program for preschool children are to:

(1) enhance the child's readiness for learning and facilitate the transition from home to school when the preschool child reaches the age of compulsory school attendance;

(2) identify developmental problems or concerns in preschool children and make referrals to the appropriate service providers or to provide the appropriate services;

(3) prevent disruptive employment conditions for parents who are employed; and

(4) ensure a continuity in access to step ahead programs as each preschool child nears the age of compulsory school attendance.

(c) To qualify for an implementation grant under this chapter for preschool or developmental child care programs for preschool children, the eligible entity implementing a preschool or developmental child care program for preschool children must demonstrate cooperation with the following programs within the county:

(1) Public schools, particularly those public schools that provide preschool or special education preschool services.

(2) Head Start programs under 42 U.S.C. 9831 et seq.

(3) Infants and toddlers with disabilities programs under IC 12-12.7-2.

(4) County health department programs.

(5) Private industry council programs.

(6) Women, Infants, and Children (WIC) programs under 42 U.S.C. 1786 et seq.

(7) Community mental retardation and mental health centers that provide services to preschool children with disabilities.

(8) Consumer representation groups.

As added by P.L.1-2005, SEC.32. Amended by P.L.93-2006, SEC.13; P.L.128-2012, SEC.16.

IC 12-17.2

ARTICLE 17.2. DAY CARE REGULATION

IC 12-17.2-1

Chapter 1. Applicability

IC 12-17.2-1-1

Application of article

Sec. 1. This article does not apply to the following:

(1) A child care center or child care home licensed or operated by any of the following:

(A) Programs for children in grades kindergarten through 12 that are operated under the authority of the department of education or that are operated with the assistance of the department of education.

(B) The division of mental health and addiction.

(C) The state department of health.

(D) The department of correction.

(2) A county jail or detention center.

As added by P.L.1-1993, SEC.141. Amended by P.L.215-2001, SEC.50.

IC 12-17.2-2

Chapter 2. General Powers and Duties of the Division

IC 12-17.2-2-1

Duties of division

Sec. 1. The division shall perform the following duties:

(1) Administer the licensing and monitoring of child care centers or child care homes in accordance with this article.

(2) Ensure that a national criminal history background check of the following is completed through the state police department under IC 10-13-3-39 before issuing a license:

(A) An applicant for a license.

(B) An employee or volunteer of an applicant who has direct contact with a child who is receiving child care from the applicant.

(C) If an applicant is applying for a license to operate a child care home, the following:

(i) The applicant's spouse.

(ii) The applicant's household members who are at least eighteen (18) years of age or who are less than eighteen (18) years of age but have previously been waived from juvenile court to adult court.

(3) Ensure that a national criminal history background check of the following is completed through the state police department under IC 10-13-3-39 before registering a child care ministry:

(A) An applicant for a child care ministry registration.

(B) An employee or volunteer of an applicant who has direct contact with a child who is receiving child care from the applicant.

(4) Provide for the issuance, denial, suspension, and revocation of licenses.

(5) Cooperate with governing bodies of child care centers and child care homes and their staffs to improve standards of child care.

(6) Prepare at least biannually a directory of licensees with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.

(7) Deposit all license application fees collected under section 2 of this chapter in the division of family resources child care fund established by section 3 of this chapter.

(8) Require each child care center or child care home to record proof of a child's date of birth before accepting the child. A child's date of birth may be proven by the child's original birth certificate or other reliable proof of the child's date of birth, including a duly attested transcript of a birth certificate.

(9) Provide an Internet site through which members of the public may obtain the following information:

(A) Information concerning violations of this article by a licensed child care provider, including:

(i) the identity of the child care provider;
(ii) the date of the violation; and
(iii) action taken by the division in response to the violation.
(B) Current status of a child care provider's license.
(C) Other relevant information.

The Internet site may not contain the address of a child care home or information identifying an individual child. However, the site may include the county and ZIP code in which a child care home is located.

(10) Provide or approve training concerning safe sleeping practices for children to:
(A) a provider who operates a child care program in the provider's home as described in IC 12-17.2-3.5-5.5(b); and
(B) a child care home licensed under IC 12-17.2-5;
including practices to reduce the risk of sudden infant death syndrome.

As added by P.L.1-1993, SEC.141. Amended by P.L.12-1994, SEC.6; P.L.241-2003, SEC.5; P.L.162-2005, SEC.1; P.L.16-2006, SEC.1; P.L.145-2006, SEC.91; P.L.1-2009, SEC.105; P.L.287-2013, SEC.4.

IC 12-17.2-2-1.5
Child care center or child care home reports of children enrolled; parental consent to submission of information

Sec. 1.5. (a) The division shall require all child care centers or child care homes to submit a report containing the names and birth dates of all children who are enrolled in the child care center or child care home within three (3) months from the date the child care center or child care home accepts its first child, upon receiving the consent of the child's parent, guardian, or custodian as required under subsection (b). The division shall require all child care centers and child care homes that receive written consent as described under subsection (b) to submit a monthly report of the name and birth date of each additional child who has been enrolled in or withdrawn from the child care center or child care home during the preceding thirty (30) days.

(b) The division shall require all child care centers or child care homes to request whether the child's parent, guardian, or custodian desires the center or home to include the child's name and birth date in the reports described under subsection (a) before enrolling the child in the center or home. No child's name or birth date may be included on the report required under subsection (a) without the signed consent of the child's parent, guardian, or custodian. The consent form must be in the following form:

"I give my permission for _____ (name of day care center or home) to report the name and birth date of my child or children to the division of family resources pursuant to IC 12-17.2-2-1.5.
Name of child _____
Birth date _____

Signature of parent, guardian, or custodian

_____

Date _____".

(c) The division shall submit a monthly report of the information provided under subsection (a) to the Indiana clearinghouse for information on missing children and missing endangered adults established under IC 10-13-5.

(d) The division shall require that a person who transports children who are in the care of the child care center on a public highway (as defined in IC 9-25-2-4) within or outside Indiana in a vehicle designed and constructed for the accommodation of more than ten (10) passengers must comply with the same requirements set forth in IC 20-27-9-12 for a public elementary or secondary school or a preschool operated by a school corporation.

As added by P.L.12-1994, SEC.7. Amended by P.L.278-2001, SEC.1; P.L.2-2003, SEC.41; P.L.1-2005, SEC.135; P.L.145-2006, SEC.92; P.L.43-2009, SEC.13.

IC 12-17.2-2-2

Powers of division

Sec. 2. The division may do the following:

(1) Prescribe forms for reports, statements, notices, and other documents required by this article or by the rules adopted under this article.

(2) Increase public awareness of this article and the rules adopted under this article by preparing and publishing manuals and guides explaining this article and the rules adopted under this article.

(3) Facilitate compliance with and enforcement of this article through the publication of materials under subdivision (2).

(4) Prepare reports and studies to advance the purpose of this article.

(5) Seek the advice and recommendations of state agencies whose information and knowledge would be of assistance in writing, revising, or monitoring rules developed under this article. These agencies, including the office of the attorney general, state department of health, division of mental health and addiction, bureau of criminal identification and investigation, and fire prevention and building safety commission, shall upon request supply necessary information to the division.

(6) Make the directory of licensees available to the public for a charge not to exceed the cost of reproducing the directory.

(7) Charge a reasonable processing fee for each license application and renewal as follows:

(A) For a child care center license, a fee of two dollars ($2) per licensed child capacity.

(B) For a child care center new inquiry application packet, a fee not to exceed five dollars ($5).

(C) For a child care home license new inquiry application

packet, a fee not to exceed five dollars ($5).

(D) For a child care home annual inspection, a fee not to exceed twenty-five dollars ($25).

(8) Exercise any other regulatory and administrative powers necessary to carry out the functions of the division.

As added by P.L.1-1993, SEC.141. Amended by P.L.215-2001, SEC.51.

IC 12-17.2-2-3

Division of family resources child care fund

Sec. 3. (a) The division of family resources child care fund is established for the purpose of providing training and facilitating compliance with and enforcement of this article. The fund shall be administered by the division.

(b) The fund consists of the fees and civil penalties collected under this article.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.1-1993, SEC.141. Amended by P.L.145-2006, SEC.93.

IC 12-17.2-2-4

Child care center licensing and inspection rules

Sec. 4. (a) The division shall adopt rules under IC 4-22-2 concerning the licensing and inspection of child care centers and child care homes after consultation with the following:

(1) State department of health.

(2) Fire prevention and building safety commission.

(3) The board.

(b) The rules adopted under subsection (a) shall be applied by the division and state fire marshal in the licensing and inspection of applicants for a license and licensees under this article.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-2-5

Child care ministry inspection rules

Sec. 5. (a) The division shall adopt rules under IC 4-22-2 to govern the inspection of child care ministries under this article. The rules must provide standards for sanitation.

(b) A child care ministry shall comply with rules established by the division for child care ministries.

As added by P.L.1-1993, SEC.141. Amended by P.L.159-1995, SEC.1.

IC 12-17.2-2-5.5
Administrative rules and policy statements

Sec. 5.5. (a) Notwithstanding IC 12-7-2-149.1, as used in this section, "provider" means a person who provides child care under this article.

(b) When the division adopts an administrative rule or a policy statement to administer this article, the division shall make the administrative rule or policy statement available to the public upon request.

(c) When the division adopts an administrative rule or a policy statement to administer this article, the administrative rule or policy statement must specifically identify the type of provider to which the administrative rule or policy statement applies.

(d) When the division provides information to the public concerning an administrative rule or a policy statement adopted by the division, each document provided must specifically identify the type of provider to which the administrative rule or policy statement applies.

As added by P.L.19-2003, SEC.2. Amended by P.L.241-2003, SEC.4.

IC 12-17.2-2-6
Monitoring of licensed entities

Sec. 6. (a) The division shall monitor entities licensed under this article for the continued compliance with this article and the rules adopted by the division.

(b) The division shall conduct monitoring activities that include onsite inspections, record reading, observation, and interviewing.

(c) The division shall conduct an onsite licensing study at least one (1) time a year in announced or unannounced visits.

(d) The division is entitled to access to the premises, personnel, children in care, and records, including case records, foster care records, personnel files, corporate and fiscal records, and board minutes. Access shall also be provided to personnel from other state agencies or other persons who provide inspections at the request of the division.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-2-7
Investigation of complaints

Sec. 7. The division shall investigate complaints to determine possible noncompliance with the rules adopted by the division. The licensee is entitled to add comments concerning a complaint to the licensing file. The division shall consider all formal complaints against a licensee before a license may be renewed.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-2-8
Licensure exemptions

Sec. 8. The division shall exempt from licensure the following programs:

(1) A program for children enrolled in grades kindergarten through 12 that is operated by the department of education or a public or private school.
(2) A program for children who become at least three (3) years of age as of December 1 of a particular school year (as defined in IC 20-18-2-17) that is operated by the department of education or a public or private school.
(3) A nonresidential program for a child that provides child care for less than four (4) hours a day.
(4) A recreation program for children that operates for not more than ninety (90) days in a calendar year.
(5) A program whose primary purpose is to provide social, recreational, or religious activities for school age children, such as scouting, boys club, girls club, sports, or the arts.
(6) A program operated to serve migrant children that:
(A) provides services for children from migrant worker families; and
(B) is operated during a single period of less than one hundred twenty (120) consecutive days during a calendar year.
(7) A child care ministry registered under IC 12-17.2-6.
(8) A child care home if the provider:
(A) does not receive regular compensation;
(B) cares only for children who are related to the provider;
(C) cares for less than six (6) children, not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative; or
(D) operates to serve migrant children.
(9) A child care program operated by a public or private secondary school that:
(A) provides day care on the school premises for children of a student or an employee of the school;
(B) complies with health, safety, and sanitation standards as determined by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter; and
(C) substantially complies with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter.
(10) A school age child care program (commonly referred to as a latch key program) established under IC 20-26-5-2 that is operated by:
(A) the department of education;
(B) a public or private school; or
(C) a public or private organization under a written contract with:

(i) the department of education; or
(ii) a public or private school.

As added by P.L.1-1993, SEC.141. Amended by P.L.61-1993, SEC.8; P.L.136-1993, SEC.6; P.L.2-1995, SEC.50; P.L.50-2001, SEC.1; P.L.1-2005, SEC.136.

IC 12-17.2-2-9
Migrant children's programs

Sec. 9. (a) A program operated to serve migrant children that is exempted under section 8(6) of this chapter and is certified by the United States Department of Health and Human Services shall be:

(1) granted a provisional license by the division, for a limited period not to exceed one (1) year and that is subject to review every three (3) months, if the division determines that the program reasonably complies with the rules adopted by the division; and
(2) inspected by the division of fire and building safety.

(b) The division and the fire prevention and building safety commission shall adopt rules under IC 4-22-2 that apply only to programs operated to serve migrant children that take into consideration the fact that the programs:

(1) operate in donated space;
(2) provide services for children from migrant worker families; and
(3) are operated during a single period of less than one hundred twenty (120) consecutive days during a calendar year.

(c) This section does not prohibit a program operated to serve migrant children from applying for a license under this article.

As added by P.L.1-1993, SEC.141. Amended by P.L.1-2006, SEC.192.

IC 12-17.2-2-10
Variances and waivers

Sec. 10. (a) The division may grant a variance or waiver of a rule governing a provider. A variance or waiver granted under this section must promote statewide practices and must protect the rights of persons affected by this article.

(b) The division may grant a variance to a rule if a provider does the following:

(1) Submits to the division a written request for the variance in the form and manner specified by the division.
(2) Documents that compliance with an alternative method of compliance approved by the division will not be adverse to the health, safety, or welfare of a child receiving services from the applicant for the variance, as determined by the division.

(c) A variance granted under subsection (b) must be conditioned upon compliance with the alternative method approved by the division. Noncompliance constitutes the violation of a rule of the division and may be the basis for revoking the variance.

(d) The division may grant a waiver of a rule if a provider does the

following:

(1) Submits to the division a written request for the waiver in the form and manner specified by the division.

(2) Documents that compliance with the rule specified in the application for the waiver will create an undue hardship on the applicant for the waiver, as determined by the division.

(3) Documents that the applicant for the waiver will be in substantial compliance with the rules adopted by the division after the waiver is granted, as determined by the division.

(4) Documents that noncompliance with the rule specified in the application for a waiver will not be adverse to the health, safety, or welfare of a child receiving services from the applicant for the waiver, as determined by the division.

(e) Except for a variance or waiver of a rule governing child care homes, a variance or waiver of a rule under this section that conflicts with a building rule or fire safety rule adopted by the fire prevention and building safety commission is not effective until the variance or waiver is approved by the fire prevention and building safety commission.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.7; P.L.2-1995, SEC.51; P.L.145-2006, SEC.94; P.L.225-2013, SEC.5.

IC 12-17.2-2-11

Expiration of variances and waivers

Sec. 11. A waiver or variance granted under section 10 of this chapter and a waiver or variance renewed under section 12 of this chapter expires on the earlier of the following:

(1) The date when the license affected by the waiver or variance expires.

(2) The date set by the division for the expiration of the waiver or variance.

(3) The occurrence of the event set by the division for the expiration of the waiver or variance.

(4) Two (2) years after the date that the waiver or variance becomes effective.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-2-12

Renewal of variances and waivers

Sec. 12. (a) If the division determines that a waiver or variance expiring under section 11 of this chapter will continue to serve the public interest, the division may do the following:

(1) Renew the waiver or variance without modifications.

(2) Renew and modify the waiver or variance as needed to promote statewide practices and to protect the rights of persons affected by this article.

(b) Before taking an action under subsection (a), the division may require a licensee under this article to do the following:

(1) Apply for the renewal of a waiver or variance on the form

specified by the division.

(2) Provide the information required by the division.

(c) Except for a waiver or variance of a rule governing child care homes or foster homes, before taking an action under subsection (a), the division must obtain the approval of the fire prevention and building safety commission for the action if either of the following occurs:

(1) The fire prevention and building safety commission substantially changes a building rule or fire safety rule affected by the waiver or variance after the date the commission last approved the waiver or variance.

(2) The division substantially modifies any part of a waiver or variance that conflicts with a building rule or fire safety rule adopted by the fire prevention and building safety commission.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.8.

IC 12-17.2-2-13
Revocation of variances and waivers

Sec. 13. (a) If a licensee under this article violates a condition of a waiver or variance under this chapter, the division may issue an order revoking the waiver or variance before the waiver or variance expires under section 11 of this chapter.

(b) If the waiver or variance is revoked under subsection (a), the licensee is entitled to notice and an opportunity for a hearing as provided under this article.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-2-14
Repealed

(Repealed by P.L.2-2014, SEC.66; P.L.2-2014, SEC.67.)

IC 12-17.2-2-14.2
Paths to QUALITY program established

Sec. 14.2. (a) As used in this section, "program" refers to the paths to QUALITY program established by subsection (b).

(b) The paths to QUALITY program is established. The program is a voluntary child care facility quality rating and improvement system implemented by the division in partnership with the following organizations under the trademark "Paths to QUALITY":

(1) Indiana Association for the Education of Young Children.

(2) Indiana Association for Child Care Resource and Referral.

(3) Indiana Head Start Collaboration Office.

(4) Department of education established by IC 20-19-3-1.

(5) Early Childhood Alliance.

(6) 4C of Southern Indiana.

(c) The program shall use four (4) levels at which a child care facility participating in the program may be rated, with Level 4 indicating the highest level of quality child care.

(d) The office of the secretary shall adopt rules under IC 4-22-2 to

administer the paths to QUALITY program rating system. The rules must include procedures that outline eligibility and application procedures for the program, the establishment of procedures relating to the rating process, and the establishment or alteration of standards used in the rating process.

(e) The office of the secretary shall adopt rules under IC 4-22-2 to establish the steering council of the program to make recommendations to the division on program issues and resources. Rules adopted under this subsection must require that council members be appointed from partner organizations that assist in the implementation of the program and serve to coordinate the program plan.

As added by P.L.2-2014, SEC.68.

IC 12-17.2-2-14.4

State police department release results of national criminal history background check; division prohibited from releasing records

Sec. 14.4. (a) The state police department shall release the results of a national criminal history background check conducted in accordance with this article to the division.

(b) The division may not release records received from the state police department under subsection (a).

As added by P.L.2-2014, SEC.69.

IC 12-17.2-2.5

Chapter 2.5. Child Care Advisory Committees

IC 12-17.2-2.5-1

Establishment of committees

Sec. 1. The division shall establish a child care advisory committee for each of the following categories of child care:

(1) Child care homes.

(2) Child care centers.

As added by P.L.126-2007, SEC.1.

IC 12-17.2-2.5-2

Purpose

Sec. 2. The purpose of each committee is to provide to the division information, advice, and assistance concerning implementation of child care regulations.

As added by P.L.126-2007, SEC.1.

IC 12-17.2-2.5-3

Membership

Sec. 3. Each committee must consist of members appointed:

(1) by the director or the director's designee; and

(2) to provide diversity in representing the types of child care that comprise the committee's category specified in section 1 of this chapter, including size, licensure status, accreditation status, and geographic location in Indiana.

As added by P.L.126-2007, SEC.1.

IC 12-17.2-2.5-4

Meetings

Sec. 4. Meetings of each committee must be held on a quarterly basis.

As added by P.L.126-2007, SEC.1.

IC 12-17.2-2.5-5

Attendance

Sec. 5. The child care administrator of the division (or the child care administrator's designee) and other representatives of the division shall attend the meetings of each committee.

As added by P.L.126-2007, SEC.1.

IC 12-17.2-2.5-6

Annual reports

Sec. 6. Each committee shall annually report to the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6 concerning the committee's activities during the previous year.

As added by P.L.126-2007, SEC.1. Amended by P.L.53-2014, SEC.109.

IC 12-17.2-2.5-7
Compensation

Sec. 7. Members of each committee serve without compensation.

As added by P.L.126-2007, SEC.1.

IC 12-17.2-3
Repealed

(Repealed by P.L.253-1997(ss), SEC.45.)

IC 12-17.2-3.1
Repealed

(Repealed by P.L.107-2005, SEC.3.)

IC 12-17.2-3.2
Repealed

(Repealed by P.L.1-2007, SEC.248.)

IC 12-17.2-3.3
Repealed

(Repealed by P.L.53-2014, SEC.110.)

IC 12-17.2-3.5

Chapter 3.5. Eligibility of Child Care Provider to Receive Reimbursement Through Voucher Program

IC 12-17.2-3.5-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 10 of this chapter by P.L.131-2002 apply to a provider that begins receiving voucher payments after June 30, 2002.

As added by P.L.220-2011, SEC.268.

IC 12-17.2-3.5-1

Applicability of chapter

Sec. 1. (a) This chapter applies to all child care providers regardless of whether a provider is required to be licensed or registered under this article. However, except as provided in section 4(b) of this chapter, a child care provider that is licensed under IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with this chapter.

(b) If a school age child care program that is:

(1) described in IC 12-17.2-2-8(10); and

(2) located in a school building;

is determined to be in compliance with a requirement of this chapter by another state regulatory authority, the school age child care program is considered to be in compliance with the requirement under this chapter.

As added by P.L.247-2001, SEC.3. Amended by P.L.18-2003, SEC.8; P.L.16-2006, SEC.2; P.L.124-2007, SEC.4; P.L.225-2013, SEC.6.

IC 12-17.2-3.5-1.2

"Child care program"

Sec. 1.2. As used in this chapter, "child care program" refers to the activities provided for children during the time that children are in the care of a provider.

As added by P.L.18-2003, SEC.9.

IC 12-17.2-3.5-1.3

"Employed"; "employee"; "employment"; "employs"

Sec. 1.3. As used in this chapter, "employed", "employee", "employment", or "employs" refers to services performed by an individual for compensation. The terms do not refer to services performed by an individual who volunteers, including an individual who provides assistance and receives an allowance, a stipend, or other support under the federal Foster Grandparent Program (42 U.S.C. 66(II)(B)).

As added by P.L.18-2003, SEC.10.

IC 12-17.2-3.5-1.7

Repealed

(Repealed by P.L.225-2013, SEC.7.)

IC 12-17.2-3.5-2
Repealed
(Repealed by P.L.18-2003, SEC.34.)

IC 12-17.2-3.5-3
"Voucher payment"
Sec. 3. As used in this chapter, "voucher payment" means payment for child care through the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.
As added by P.L.247-2001, SEC.3.

IC 12-17.2-3.5-4
Ineligible providers; enforcement actions; decertification; division consideration of religious instruction or activity
Sec. 4. (a) A provider is ineligible to receive a voucher payment if the provider:
(1) has been convicted of a:
(A) felony:
(i) related to the health or safety of a child;
(ii) that is a sex offense (as defined in IC 11-8-8-5.2);
(iii) that is a dangerous felony; or
(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;
(B) misdemeanor related to:
(i) the health or safety of a child; or
(ii) welfare fraud;
(C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or
(D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;
(2) allows an individual who has been convicted of a crime specified under subdivision (1) to reside with the provider, if the provider operates a child care program in the provider's home;
(3) employs an individual or allows an individual to volunteer who:
(A) has direct contact with a child who is receiving child care from the provider; and
(B) has been convicted of a crime specified in subdivision (1);
(4) has had a revocation of eligibility under this chapter during

the immediately preceding two (2) years; or

(5) fails to meet the requirements of this chapter.

(b) A provider whose:

(1) license under IC 12-17.2-4 or IC 12-17.2-5; or

(2) compliance with this chapter;

is subject to an enforcement action is ineligible to receive a voucher payment, regardless of whether the provider meets the requirements of this chapter, until the outcome of any proceeding under IC 4-21.5 reflects a final determination that the provider's license or eligibility is in good standing.

(c) If the division decertifies a provider under this chapter, the provider:

(1) may reapply for eligibility to receive a voucher payment at any time that the provider is able to demonstrate compliance with this chapter; and

(2) is not eligible to receive a voucher payment under this chapter until the provider receives notice from the division that the provider's application under subdivision (1) has been approved.

(d) In determining whether a provider meets the requirements of this chapter, the division may not consider religious instruction or activities.

As added by P.L.247-2001, SEC.3. Amended by P.L.109-2002, SEC.2; P.L.18-2003, SEC.12; P.L.287-2013, SEC.6; P.L.225-2013, SEC.8; P.L.171-2014, SEC.2.

IC 12-17.2-3.5-4.1

Perpetrators ineligible

Sec. 4.1. (a) This section applies to the following:

(1) A provider, if the provider is an individual.

(2) If a provider operates a child care program in the provider's home, an individual who resides with the provider and who is at least eighteen (18) years of age.

(3) An individual who:

(A) is employed; or

(B) volunteers;

at the facility where a provider operates a child care program.

(b) If information used by the division under IC 31-33-26-16(a)(10) or obtained by the division under section 18 of this chapter indicates that an individual described in subsection (a) has been named as a perpetrator, the following are ineligible to receive a voucher payment:

(1) The individual.

(2) A provider in whose home the individual resides if the provider operates a child care program in the provider's home.

(3) A provider that:

(A) employs the individual; or

(B) allows the individual to volunteer;

at the facility where the provider operates a child care program.

As added by P.L.109-2002, SEC.3. Amended by P.L.18-2003,

SEC.13; P.L.225-2013, SEC.9.

IC 12-17.2-3.5-5

Facility requirements; activities; nutrition; educational materials

Sec. 5. (a) A provider shall have:

(1) working smoke detectors that meet the standards adopted by rule for smoke detectors in licensed child care homes; and

(2) hot and cold running water;

in the area of the facility where the provider operates a child care program.

(b) A provider shall meet sanitation standards for bathrooms and handwashing, as established by the division.

(c) Beginning July 1, 2015, a provider shall have, and maintain compliance with, a written policy describing the practice of the provider concerning the following:

(1) Safe conditions in the facility and on the grounds.

(2) Safety of motor vehicles used to transport children.

(d) At the time a provider establishes the written policy required by subsection (c), and at the time of any subsequent change to the written policy, the provider shall:

(1) file with the division;

(2) post in a public location in the facility where the provider operates a child care program; and

(3) provide to the parent or guardian of each child in the care of the provider;

a copy of the written policy or change. The written policy required by subsection (c) is not subject to approval by the division.

(e) Beginning July 1, 2015, a provider shall make available daily activities appropriate to the age, developmental needs, interests, and number of children in the care of the provider, including the following:

(1) Both active and quiet play. The provider may include the use of safe, age-appropriate toys, games, and equipment for indoor and outdoor play.

(2) Daily outdoor play, unless one (1) of the following applies:

(A) Severity of the weather poses a safety or health hazard.

(B) A health related reason for a child to remain indoors is documented by the child's parent, guardian, or physician.

(f) Beginning July 1, 2015, a provider shall make available to each child in the provider's care the following:

(1) Appropriately timed, nutritious meals and snacks in a quantity sufficient to meet the needs of the child.

(2) Drinking water at all times.

(g) The division may make available to a provider educational materials related to quality of child care, as follows:

(1) The materials are available at no cost to the provider.

(2) The materials are appropriate to the ages of children cared for by the provider.

(3) The materials are current.

(4) The materials are available electronically.

(5) Use of the materials by the provider is voluntary.

As added by P.L.247-2001, SEC.3. Amended by P.L.131-2002, SEC.1; P.L.18-2003, SEC.14; P.L.225-2013, SEC.10; P.L.171-2014, SEC.3.

IC 12-17.2-3.5-5.5

Supervision of children; safe sleeping; ratios and group sizes

Sec. 5.5. (a) A provider shall ensure that a child in the provider's care is continually supervised by a caregiver.

(b) A provider that cares for children who are less than twelve (12) months of age shall:

(1) complete the training course provided or approved by the division under IC 12-17.2-2-1(10) concerning safe sleeping practices; and

(2) ensure that all caregivers of children who are less than twelve (12) months of age follow safe sleeping practices.

(c) After June 30, 2015, a provider that cares for:

(1) not more than sixteen (16) children at a facility where the provider operates a child care program shall maintain:

(A) a ratio of children to caregivers in the same proportions as specified in the child to staff ratio requirements; and

(B) the same group sizes as specified in the group size requirements;

that apply to a child care home under IC 12-17.2-5; and

(2) more than sixteen (16) children at a facility where the provider operates a child care program shall maintain:

(A) a ratio of children to caregivers in the same proportions as specified in the child to staff ratio requirements; and

(B) the same group sizes as specified in the group size requirements;

that apply to a child care center under IC 12-17.2-4.

As added by P.L.18-2003, SEC.15. Amended by P.L.162-2005, SEC.2; P.L.225-2013, SEC.11; P.L.171-2014, SEC.4.

IC 12-17.2-3.5-6

Tuberculosis screening

Sec. 6. (a) A provider who is an individual shall have an intradermal tuberculosis test before the provider is eligible for a voucher payment.

(b) A provider shall assure that an individual who is at least eighteen (18) years of age and:

(1) who, if the provider operates a child care program in the provider's home, resides with the provider; or

(2) who:

(A) is employed; or

(B) volunteers;

as a caregiver at the facility where the provider operates a child care program;

has an intradermal tuberculosis test before the individual resides with the provider or is employed or allowed to volunteer as a caregiver.

(c) A provider shall maintain documentation of an annual health assessment by a physician reflecting the results of symptom screening for tuberculosis for:

(1) the provider, if the provider is an individual; and

(2) an individual described in subsection (b);

who has a history of latent or active tuberculosis.

(d) A provider shall provide the results of the tests and screening required under this section to the division upon request.

As added by P.L.247-2001, SEC.3. Amended by P.L.18-2003, SEC.16.

IC 12-17.2-3.5-7

Parent notification plan; discipline policy; parent visits

Sec. 7. (a) A provider shall have written plans for notifying parents regarding the following:

(1) Illness, serious injury, or death of the provider.

(2) Care in an emergency.

(3) Emergency evacuation.

The plan required under subdivision (3) must be posted in a conspicuous location in the facility where the provider operates a child care program.

(b) A provider shall:

(1) maintain a written child discipline policy;

(2) ensure that all employees and volunteers follow the child discipline policy;

(3) provide to the parent or legal guardian of each child cared for by the provider a written copy of the child discipline policy; and

(4) maintain in each child's file a copy of the child discipline policy that has been signed by the parent or legal guardian described in subdivision (3).

(c) A provider shall allow unscheduled visits by a parent or legal guardian to a facility where the provider operates a child care program during the hours the child care program is in operation.

As added by P.L.247-2001, SEC.3. Amended by P.L.18-2003, SEC.17; P.L.225-2013, SEC.12.

IC 12-17.2-3.5-8

Caregiver requirements; education; documentation

Sec. 8. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by a provider shall be present at all times when a child is in the care of the provider.

(b) The following apply to an individual who is employed or volunteers as a caregiver at a facility where a provider operates a child care program:

(1) The individual shall maintain current certification in first aid applicable to all age groups of children cared for by the provider.

(2) If the individual is:

(A) at least eighteen (18) years of age, the individual may act as a caregiver without supervision of another caregiver; or
(B) less than eighteen (18) years of age, the individual may act as a caregiver only if the individual:
(i) is at least fourteen (14) years of age; and
(ii) is, at all times when child care is provided, directly supervised by a caregiver who is at least eighteen (18) years of age.
(3) Before beginning employment or volunteer duties, the individual must receive a formal orientation to the facility and the child care program.
(4) Beginning July 1, 2015, unless the provider is a parent, stepparent, guardian, custodian, or other relative to each child in the care of the provider, the individual annually must receive at least twelve (12) hours of continuing education approved by the division and related to the age appropriate educational development, care, and safety of children. The hours of continuing education required by this subdivision may include the training described in this chapter concerning child abuse detection and prevention, first aid, cardiopulmonary resuscitation, and safe sleeping practices.
(5) Not more than three (3) months after the individual begins employment or volunteer duties, the individual must receive training approved by the division concerning child abuse detection and prevention.
(c) A provider shall:
(1) maintain at the facility where the provider operates a child care program documentation of all training and completion of continuing education required by this section; and
(2) make the documentation available to the division upon request.

As added by P.L.247-2001, SEC.3. Amended by P.L.47-2002, SEC.1; P.L.18-2003, SEC.18; P.L.225-2013, SEC.13; P.L.171-2014, SEC.5.

IC 12-17.2-3.5-8.5
Child abuse or neglect reporting

Sec. 8.5. (a) A provider shall provide to all employees and volunteers of the provider the written material prepared and made available by the division under subsection (c).

(b) An employee or a volunteer of a provider who has reason to believe that a child in the provider's care is a victim of child abuse or neglect shall make a report as required under IC 31-33-5.

(c) The division shall do the following:
(1) Prepare written material specifying the following:
(A) The duty to report known or suspected child abuse or neglect under IC 31-33-5.
(B) That knowing failure to make a report required by:
(i) IC 31-33-5-1; or
(ii) IC 31-33-5-2;
is a Class B misdemeanor under IC 31-33-22-1.

(2) Make the written material under subdivision (1) available to providers.

As added by P.L.171-2014, SEC.6.

IC 12-17.2-3.5-9
Communication devices

Sec. 9. (a) A provider shall have at least one (1) working telephone in each facility where the provider operates a child care program.

(b) A provider shall, in each facility where the provider operates a child care program, have a communication device (which may be the telephone required by subsection (a)) that is:

(1) approved by the division; and

(2) compatible with an automated time and attendance tracking system approved by the division.

As added by P.L.247-2001, SEC.3. Amended by P.L.18-2003, SEC.19; P.L.171-2014, SEC.7.

IC 12-17.2-3.5-10
Fire safety requirements

Sec. 10. (a) A facility where a provider operates a child care program must have two (2) exits that:

(1) do not require passage through a:

(A) garage; or

(B) storage area;

where hazardous materials are stored;

(2) are not windows;

(3) are on different sides of the facility;

(4) are not blocked; and

(5) are operable from the inside without the use of a key or any special knowledge.

(b) A provider shall:

(1) conduct monthly documented fire drills:

(A) in accordance with the rules of the fire prevention and building safety commission; and

(B) that include complete evacuation of all:

(i) children; and

(ii) adults who provide child care;

in the facility;

(2) maintain documentation of all fire drills conducted during the immediately preceding twelve (12) month period, including:

(A) the date and time of the fire drill;

(B) the name of the individual who conducted the fire drill;

(C) the weather conditions at the time of the fire drill; and

(D) the amount of time required to fully evacuate the facility; and

(3) maintain a two and one-half (2 1/2) pound or greater ABC multiple purpose fire extinguisher:

(A) on each floor of the facility; and

(B) in the kitchen area of the facility;

in each facility where the provider operates a child care program.
As added by P.L.247-2001, SEC.3. Amended by P.L.131-2002, SEC.2; P.L.18-2003, SEC.20.

IC 12-17.2-3.5-11
Items inaccessible to children; transporting children

Sec. 11. (a) A provider shall provide for a safe environment by ensuring that the following items are placed in areas that are inaccessible to the children in the provider's care:

(1) Firearms and ammunition.
(2) Poisons, chemicals, bleach, and cleaning materials.
(3) Medications.

(b) A provider shall do the following with respect to transporting children away from the facility where the provider operates a child care program:

(1) Obtain written permission from the child's parent or legal guardian to transport the child.
(2) Ensure that the child is transported only by an employee or a volunteer who:
    (A) is at least eighteen (18) years of age;
    (B) holds a valid driver's license; and
    (C) transports the child in a properly licensed and insured motor vehicle.

As added by P.L.247-2001, SEC.3. Amended by P.L.225-2013, SEC.14.

IC 12-17.2-3.5-11.1
Immunizations

Sec. 11.1. (a) After December 31, 2002, a provider shall maintain and annually update documentation provided by the physician of each child who is cared for in a facility where the provider operates a child care program that the child has received complete age appropriate immunizations, including:

(1) conjugated pneumococcal vaccine; and
(2) varicella vaccine or a demonstrated immunity to varicella.

The state department of health shall determine for each age level the immunizations that constitute complete age appropriate immunizations.

(b) A provider meets the requirement of subsection (a) if:

(1) a child's parent:
    (A) objects to immunizations for religious reasons; and
    (B) provides documentation of the parent's objection;
(2) the child's physician provides documentation of a medical reason the child should not be immunized; or
(3) the child's physician provides documentation that the child is currently in the process of receiving complete age appropriate immunizations;

and the provider maintains and annually updates the documentation provided by the parent or physician under this subsection.
As added by P.L.121-2002, SEC.1 and P.L.131-2002, SEC.3.

Amended by P.L.18-2003, SEC.21.

IC 12-17.2-3.5-12
National criminal history background check; temporary eligibility; exceptions; fees or costs; meet certain requirements by July 1, 2014

Sec. 12. (a) Except as provided in subsection (f) and subject to subsection (g), a provider shall, at no expense to the state, do the following:

(1) If the provider is an individual, submit the provider's fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

(2) If the provider operates a child care program in the provider's home, require:

(A) the provider's spouse; and

(B) any individual who resides with the provider and who is:

(i) at least eighteen (18) years of age; or

(ii) less than eighteen (18) years of age but has previously been waived from juvenile court to adult court;

to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

(3) Require any individual who:

(A) is employed or volunteers; and

(B) has direct contact with a child who is receiving child care from the provider;

to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

A provider shall require an individual described in subdivision (3) to submit fingerprints for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.

(b) In addition to the requirement under subsection (a), a provider shall report to the division any:

(1) police investigations;

(2) arrests; and

(3) criminal convictions;

of which the provider is aware regarding any of the persons listed in subsection (a).

(c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the division receives the national criminal history background check required under subsection (a) from the state police department if:

(1) the provider:

(A) has:

(i) submitted; or

(ii) required an individual described in subsection (a)(2) or (a)(3) to submit;

fingerprints for a national criminal history background check as required under subsection (a); and

(B) obtains a local criminal history for the individuals

described in subsection (a) from each individual's local law enforcement agency before the individual is employed or allowed to volunteer; and

(2) the local criminal history does not reveal that an individual has been convicted of a:

(A) felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

(B) misdemeanor related to the health or safety of a child;

(C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(d) A provider is ineligible to receive a voucher payment if an individual for whom a national criminal history background check is required under this section has been convicted of a:

(1) felony:

(A) related to the health or safety of a child;

(B) that is a sex offense (as defined in IC 11-8-8-5.2);

(C) that is a dangerous felony; or

(D) that is not a felony otherwise described in clauses (A) through (C), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

(2) misdemeanor related to the health or safety of a child;

(3) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(4) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;

until the individual is dismissed from employment or volunteer service at the facility where the provider operates a child care program or no longer resides with the provider.

(e) A provider shall maintain a written policy requiring an individual for whom a national criminal history background check is required under this section to report any criminal convictions of the individual to the provider.

(f) Notwithstanding IC 10-13-3-28, the state police department may not charge a church or religious society any fees or costs (other than fees or costs charged by the Federal Bureau of Investigation or a private entity) for responding to a request for a release of a national criminal history background check record of a prospective or current employee or a prospective or current volunteer of a child care ministry registered under IC 12-17.2-6 if the conditions set forth in IC 10-13-3-36(f) are met.

(g) A provider that holds a license or registration under this article on July 1, 2013, shall, at no expense to the state, meet the requirements under subsection (a) not later than July 1, 2014.

As added by P.L.247-2001, SEC.3. Amended by P.L.109-2002, SEC.4; P.L.18-2003, SEC.22; P.L.6-2004, SEC.1; P.L.142-2006, SEC.2; P.L.287-2013, SEC.7.

IC 12-17.2-3.5-12.1

Drug testing

Sec. 12.1. (a) A provider shall, at no expense to the state, maintain and make available to the division upon request a copy of drug testing results for:

(1) the provider, if the provider is an individual;

(2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is at least eighteen (18) years of age; and

(3) an individual who:

(A) is employed; or

(B) volunteers;

as a caregiver at the facility where the provider operates a child care program.

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A provider that is not a child care ministry or a child care center shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

(i) tobacco;

(ii) alcohol; or

(iii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of an illegal substance;

is prohibited in the facility where the provider operates a child care program when child care is being provided.

(2) That drug testing of individuals who serve as caregivers will be:

(A) performed based on a protocol established or approved

by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) A provider that is a child care ministry or a child care center shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

(i) tobacco; or

(ii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of alcohol or an illegal substance;

is prohibited in the facility where the provider operates a child care program when child care is being provided.

(2) That drug testing of individuals who serve as caregivers will be:

(A) performed based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(d) If:

(1) the drug testing results obtained under subsection (a), (b), or (c) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B); or

(2) an individual refuses to submit to a drug test;

the provider is ineligible to receive a voucher payment until the individual is suspended or terminated from employment or volunteer service at the facility or no longer resides with the provider.

(e) A provider that suspends an individual described in subsection (d) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B).

(f) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

As added by P.L.109-2002, SEC.5. Amended by P.L.18-2003, SEC.23; P.L.6-2004, SEC.2; P.L.16-2006, SEC.3.

IC 12-17.2-3.5-13

Local step ahead councils

Sec. 13. A local step ahead council may not require a child care ministry to meet any minimum standards in addition to the standards described in this chapter unless the additional standards are approved by the:

(1) general assembly; or

(2) division.

As added by P.L.247-2001, SEC.3.

IC 12-17.2-3.5-14

Administrative review

Sec. 14. (a) Notice of a determination made under this chapter must be provided under IC 4-21.5-3-6.

(b) A person affected by a determination made under this chapter may seek administrative review under IC 4-21.5-3-7.

As added by P.L.109-2002, SEC.6.

IC 12-17.2-3.5-15

Rulemaking

Sec. 15. The division shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.18-2003, SEC.24.

IC 12-17.2-3.5-16

Decertification and revocation of eligibility

Sec. 16. (a) The division may, according to rules adopted under IC 4-22-2, decertify a provider for any of the following reasons:

(1) The provider fails to comply with this chapter.

(2) The provider refuses to allow, during normal business hours, the division or an agent of the division to inspect the facility where the provider operates a child care program.

(b) A provider is ineligible, and the division may revoke for a period of not less than two (2) years from the date on which a final determination is made under IC 4-21.5 a provider's eligibility, to receive a voucher payment under this chapter for any of the following reasons:

(1) The provider is determined by the division to have made false statements in the provider's:

(A) application for eligibility to receive a voucher payment; or

(B) records required by the division;

under this chapter.

(2) Credible allegations of fraud have been made against the provider, as determined by the division.

(3) Criminal charges of welfare fraud have been filed against the provider.

(4) Allegations of welfare fraud committed by the provider have been substantiated by the division.

As added by P.L.225-2013, SEC.15. Amended by P.L.171-2014, SEC.8.

IC 12-17.2-3.5-17

Imminent threats to children

Sec. 17. (a) A provider is ineligible to receive a voucher payment under this chapter if any of the following conditions exist, posing an imminent threat to the life or well-being of a child in the care of the provider at a facility where the provider operates a child care program:

(1) Building damage due to:

(A) earthquake;

(B) flooding or water damage;
(C) tornado;
(D) severe wind;
(E) ice storm;
(F) fire;
(G) lead contamination; or
(H) asbestos.

(2) Sewage problems as follows:
(A) Sewage backup.
(B) Toilets cannot be flushed or are overflowing.
(C) Sewage system is not operating properly.

(3) Inadequate or unsafe water supply as follows:
(A) Contaminated water supply.
(B) Water supply not functioning.

(4) No electricity in the building.

(5) Heating system problems.

(6) Gas, carbon monoxide, or other noxious gases leak.

(7) Filthy conditions.

(8) Rodent, roach, or vermin infestation.

(9) Building renovation occurring in a room or area occupied by children.

(10) Building condition that is structurally unsafe.

(11) Lack of supervision that results in the death or serious injury of a child.

(12) The presence at the facility where the provider operates a child care program of an individual who is, based on the results of a criminal history background check required by this chapter, prohibited under this chapter from being present at the facility.

(b) If an employee or agent of the division determines that a condition described in subsection (a) exists at a facility where a provider that is currently eligible to receive a voucher payment under this chapter operates a child care program, the division shall:

(1) issue an emergency or another temporary order under IC 4-21.5-4 decertifying the provider; and

(2) contact the parent or guardian of each child in the care of the provider to inform the parent or guardian:
(A) that the division has issued an order decertifying the provider; and
(B) of the reason for the decertification;

pending the outcome of proceedings conducted under section 14 of this chapter. However, a provider's eligibility may be reinstated in accordance with subsection (e).

(c) An emergency or other temporary order issued by an employee or agent of the division must be approved by the director.

(d) An approval under subsection (c) may be communicated orally to the employee or agent issuing the order. However, the division shall maintain a written record of the approval.

(e) If, within the fifteen (15) day period beginning on the date on which an order is issued under subsection (b), the provider:

(1) submits to the division a remediation plan that is approved

for implementation by the division; and

(2) completes the remediation plan to the satisfaction of the division;

the order issued under this section is void and the provider's eligibility to receive a voucher payment is reinstated.

As added by P.L.225-2013, SEC.16.

IC 12-17.2-3.5-18

Child abuse and neglect

Sec. 18. (a) Upon receiving notice of a claim of abuse or neglect in a facility where a provider operates a child care program, the department of child services shall:

(1) forward a copy of the notice to the division; and

(2) conduct an investigation of the claim.

(b) After an investigation under subsection (a), the department of child services shall make a determination of whether abuse or neglect occurred at the facility.

(c) If the department of child services makes a determination under IC 31-33-8-12 that abuse or neglect at the facility is substantiated, the department shall send a copy of the department's report to the appropriate office of the division.

As added by P.L.225-2013, SEC.17.

IC 12-17.2-3.5-19

Notifications of injury or death of child

Sec. 19. (a) A provider shall immediately notify the parent or legal guardian of a child in the care of the provider concerning any of the following that occur during the hours that the child is in the care of the provider:

(1) A:

(A) bodily injury (as defined in IC 35-31.5-2-29); or

(B) serious bodily injury (as defined in IC 35-31.5-2-292);

of the child that requires the attention of a physician, dentist, registered nurse, licensed practical nurse, paramedic, or emergency medical technician.

(2) The death of the child.

(b) A provider shall:

(1) not more than twenty-four (24) hours after the occurrence of an incident described in subsection (a)(1); and

(2) immediately after the occurrence of an incident described in subsection (a)(2);

notify the division of the occurrence of the incident.

(c) Information that:

(1) is obtained under subsection (b);

(2) concerns a bodily injury or serious bodily injury described in subsection (a)(1); and

(3) could be used to identify an individual child;

is confidential.

As added by P.L.171-2014, SEC.9.

IC 12-17.2-3.6

Chapter 3.6. Early Learning Advisory Committee; Early Education Matching Grant Program

IC 12-17.2-3.6-1
"Committee"

Sec. 1. As used in this chapter, "committee" refers to the early learning advisory committee established by section 8 of this chapter.
As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-2
"Eligible child"

Sec. 2. As used in this chapter, "eligible child" refers to a child who qualifies as an eligible child under section 15 of this chapter.
As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-3
"Eligible provider"

Sec. 3. As used in this chapter, "eligible provider" refers to an entity that qualifies as an eligible provider under section 16 of this chapter.
As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-4
"Eligible services"

Sec. 4. As used in this chapter, "eligible services" refers to a program of early education services that meets the standards of quality recognized by a Level 3 or Level 4 paths to QUALITY program rating.
As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-5
"Fund"

Sec. 5. As used in this chapter, "fund" refers to the early education matching grant program fund established by section 11 of this chapter.
As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-6
"Grant"

Sec. 6. As used in this chapter, "grant" refers to a matching grant from the fund.
As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-7
"Program"

Sec. 7. As used in this chapter, "program" refers to the early education matching grant program established by this chapter.
As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-8
Early learning advisory committee established

Sec. 8. (a) The early learning advisory committee is established.

(b) The committee consists of six (6) members appointed by the governor as follows:

(1) A representative of the department of education.

(2) A representative of the division.

(3) A representative of a Head Start program under 42 U.S.C. 9831 et seq.

(4) A representative of a family advocacy group that has an interest in early childhood education.

(5) An early childhood education provider.

(6) A representative of business with an interest in early childhood education.

(c) The governor shall appoint the chairperson of the committee.

(d) The division shall staff the committee.

(e) The expenses of the committee shall be paid from the funds of the division.

(f) Each member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) Each member of the committee who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) Each member of the committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this section shall be paid from appropriations made to the legislative council or the legislative services agency.

(i) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-9
Early learning advisory committee duties

Sec. 9. (a) The committee shall do the following:

(1) Conduct periodic statewide needs assessments concerning the quality and availability of early education programs for children from birth to the age of school entry, including the availability of high quality prekindergarten education for low

income children in Indiana.

(2) Identify opportunities for, and barriers to, collaboration and coordination among federally and state funded child development, child care, and early childhood education programs and services, including governmental agencies that administer the programs and services.

(3) Assess the capacity and effectiveness of two (2) and four (4) year public and private higher education institutions in Indiana for the support of development of early educators, including:

(A) professional development and career advancement plans; and

(B) practice or internships with Head Start or prekindergarten programs.

(4) Recommend to the division procedures, policies, and eligibility criteria for the program.

(5) Other duties as determined necessary by the chairperson of the committee.

(b) Not later than June 30 of each year, the committee shall develop and make recommendations to the governor and, in an electronic format under IC 5-14-6, to the legislative council concerning the results of the committee's work under this section.

As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-10

Early education matching grant program

Sec. 10. The division shall administer an early education matching grant program in compliance with this chapter. The division may establish procedures, forms, and standards to carry out this chapter. The office of the secretary may adopt rules under IC 4-22-2 to carry out this chapter.

As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-11

Early education matching grant program fund established

Sec. 11. (a) The early education matching grant program fund is established for the purpose of providing matching grants to providers of eligible services. The fund shall be administered by the division.

(b) The fund consists of the following:

(1) Appropriations by the general assembly.

(2) Grants and gifts that the state receives for the fund under terms, obligations, and liabilities that the division considers appropriate.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. The fund is a trust fund and may not be transferred to another fund under IC 4-9.1-1-7.

As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-12
Early education matching grant applications

Sec. 12. The division shall establish an application process for grants from the fund.

As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-13
Early education matching grants; criteria

Sec. 13. The division may award a grant from the fund to an applicant that:

(1) agrees to operate as an eligible provider;

(2) either:

(A) has obtained a matching gift or grant; or

(B) has a commitment for a matching gift or grant;

from any combination of foundations, other nonprofit entities, individuals, or for-profit entities for the purposes of the applicant's program of eligible services;

(3) provides the division with a plan for use of the grant and any related matching funds that demonstrates to the satisfaction of the division that use of the grant and related matching funds will increase the number of eligible children receiving eligible services;

(4) enters into a written agreement with the division concerning the delivery of eligible services and the use of a grant provided under this chapter that incorporates the plan approved by the division under subdivision (3); and

(5) provides to the division any other information that the division determines necessary or appropriate for the grant.

As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-14
Contributions to the early education matching grant program fund accepted

Sec. 14. Foundations, nonprofit entities, individuals, and for-profit entities may contribute an amount to the fund:

(1) for the purposes of providing a matching gift or grant described in section 13(2) of this chapter; or

(2) as unrestricted funds.

As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-15
Qualification as an eligible child

Sec. 15. To qualify as an eligible child, the child must be:

(1) a member of a household with an annual income that does not exceed one hundred percent (100%) of the federal poverty level;

(2) at least four (4) years of age and less than five (5) years of age when the child receives eligible services; and

(3) a resident of Indiana or otherwise have legal settlement in Indiana, as determined under IC 20-26-11.

As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-16
Qualification as an eligible provider

Sec. 16. To qualify as an eligible provider, an applicant must:

(1) be an entity other than an individual;

(2) provide eligible services to individuals for at least one hundred eighty (180) days per year;

(3) administer the kindergarten readiness assessment (ISTAR-KR) adopted by the department of education to children receiving eligible services as required by the division;

(4) include a parental involvement component in the delivery of eligible services that is based on the requirements and guidelines established by the division;

(5) comply with the agreement with the division concerning the delivery of eligible services and the use of a grant provided under this chapter; and

(6) comply with any other standards and procedures established under this chapter.

As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-17
Compliance monitoring of grant recipients

Sec. 17. The division shall monitor for compliance of a recipient of a grant with the terms of the grant.

As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.6-18
Monitoring of education outcomes

Sec. 18. (a) The division shall monitor the educational outcomes resulting from the delivery of eligible services by eligible providers that receive a grant under this chapter over the period established by the division to evaluate the contribution that eligible services make toward improved education outcomes.

(b) The division shall provide the department of education with information necessary for the department of education to assign a child who receives early education services from a provider that participates in the program under this chapter a student testing number. Upon receipt of the information, the department of education shall assign the child a student testing number to track the child's educational growth and development.

(c) The department of education shall cooperate with the division as necessary or appropriate to assist the division to carry out this section, including the sharing of information related to the educational outcomes assigned a student testing number under subsection (b) to the extent permitted by the laws governing the disclosure of student information.

(d) Beginning in 2015, the division shall annually provide the committee, the governor, and (in an electronic format under IC 5-14-6) the legislative council a report of the findings of the

division under this section in a form that complies with all laws governing the disclosure of student information.

As added by P.L.2-2014, SEC.70.

IC 12-17.2-3.7
Repealed

(Repealed by P.L.2-2014, SEC.71; P.L.2-2014, SEC.72.)

IC 12-17.2-3.8

Chapter 3.8. Early Education Evaluation Program

IC 12-17.2-3.8-1

"Paths to QUALITY program"

Sec. 1. As used in this chapter, "Paths to QUALITY program" refers to a voluntary quality rating and improvement system for child care administered:

(1) statewide by the division; and

(2) under the trademark "Paths to QUALITY".

As added by P.L.2-2014, SEC.73.

IC 12-17.2-3.8-2

"Program"

Sec. 2. As used in this chapter, "program" refers to the early education evaluation program established by section 3 of this chapter.

As added by P.L.2-2014, SEC.73.

IC 12-17.2-3.8-3

Early education evaluation program established

Sec. 3. The early education evaluation program is established to gather data concerning the school readiness of low income children who have received early education services through providers with programs of demonstrated quality that require parental involvement in the children's education.

As added by P.L.2-2014, SEC.73.

IC 12-17.2-3.8-4

Conduct of program

Sec. 4. (a) The division shall conduct a study of the school readiness of low income children receiving early education services from providers that:

(1) meet the standards of quality recognized by a Level 3 or Level 4 Paths to QUALITY program rating; and

(2) require parental involvement based on the guidelines developed under section 7 of this chapter.

(b) The division shall select representative providers in multiple locations across Indiana who administer kindergarten readiness assessments and other indicators of school readiness to children receiving services from the providers to participate in the program. The division shall work with the department of education to assign student testing numbers to low income children completing kindergarten readiness assessments.

(c) Not later than October 1 of each year, the division shall prepare an annual report of the results of the program and provide the report to the governor, to the department of education, and, in an electronic format under IC 5-14-6, to the legislative council.

(d) The division shall administer the program, which must begin on July 1, 2013.

As added by P.L.2-2014, SEC.73.

IC 12-17.2-3.8-5

Early learning advisory committee established; members; functions; reports

Sec. 5. (a) The early learning advisory committee is established to do the following:

(1) Conduct periodic statewide needs assessments concerning the quality and availability of early education programs for children from birth to the age of school entry, including the availability of high quality prekindergarten education for low income children in Indiana.

(2) Identify opportunities for, and barriers to, collaboration and coordination among federally and state funded child development, child care, and early childhood education programs and services, including governmental agencies that administer the programs and services.

(3) Assess the capacity and effectiveness of two (2) and four (4) year public and private higher education institutions in Indiana for the support of development of early educators, including:

(A) professional development and career advancement plans; and

(B) practice or internships with Head Start or prekindergarten programs.

(4) Other duties as determined necessary by the chairperson of the committee.

(5) Not later than June 30 of each year, develop and make recommendations to the governor and, in an electronic format under IC 5-14-6, to the legislative council concerning the results of the committee's work under subdivisions (1) through (4).

(b) The committee consists of six (6) members appointed by the governor as follows:

(1) A representative of the department of education.

(2) A representative of the division.

(3) A representative of a Head Start program under 42 U.S.C. 9831 et seq.

(4) A representative of a family advocacy group that has an interest in early childhood education.

(5) An early childhood education provider.

(6) A representative of business with an interest in early childhood education.

(c) The governor shall appoint the chairperson of the committee.

(d) The division shall staff the committee.

(e) The expenses of the committee shall be paid from the funds of the division.

(f) Each member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) Each member of the committee who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) Each member of the committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this section shall be paid from appropriations made to the legislative council or the legislative services agency.

(i) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

As added by P.L.2-2014, SEC.73.

IC 12-17.2-3.8-6

Participation of children

Sec. 6. The division shall provide the department of education with information necessary for the department of education to assign a child who receives early education services from a provider who participates in the program under this chapter a student testing number. Upon receipt of the information, the department of education shall assign the child a student testing number to track the child's educational growth and development.

As added by P.L.2-2014, SEC.73.

IC 12-17.2-3.8-7

Guidelines for increased parental involvement

Sec. 7. The division shall develop and maintain guidelines for the inclusion in every provider's services under this chapter of a component increasing parental engagement and involvement in the child's education.

As added by P.L.2-2014, SEC.73.

IC 12-17.2-4

Chapter 4. Regulation of Child Care Centers

IC 12-17.2-4-1

Operation of center without proper licensure; prohibition

Sec. 1. (a) A person may not operate a child care center without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a child care center without a license issued under this article.

(c) A person may not operate a child care center where:

(1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; and

(2) the children are maintained in a building or place not designated by the license.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.9.

IC 12-17.2-4-2

Conditions for licensing; waivers and variances

Sec. 2. (a) A license may be issued only if a child care center is in compliance with food, health, safety, and sanitation standards as determined by the division under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(b) A license may be issued only if the child care center is in substantial compliance with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(c) The division may issue a waiver or variance regarding a determination by the division or the state fire marshal under subsections (a) and (b).

(d) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by the child care center shall be present at all times when a child is in the care of a child care center.

(e) An individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at a child care center shall maintain current certification in first aid applicable to all age groups of children cared for by the child care center.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.10; P.L.247-2001, SEC.6; P.L.47-2002, SEC.2; P.L.18-2003, SEC.25; P.L.145-2006, SEC.96; P.L.128-2012, SEC.17.

IC 12-17.2-4-3

Applying for a license; national criminal history background check

Sec. 3. (a) An applicant must apply for a child care center license on forms provided by the division.

(b) An applicant must submit the required information as part of the application.

(c) The applicant must submit with the application a statement attesting that the applicant:

(1) has not been convicted of:

(A) a felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under section 35 of this chapter, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(D) a misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; and

(2) has not been charged with:

(A) a felony;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under section 35 of this chapter, or with a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(D) a misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or with a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;

during the pendency of the application.

(d) An applicant shall, at no expense to the state, submit:

(1) the necessary information, forms, or consents; and

(2) the applicant's fingerprints;

for a national criminal history background check by the Federal Bureau of Investigation.

(e) Subject to section 3.3 of this chapter, the applicant must, at no expense to the state, do the following:

(1) Require an employee or volunteer of the applicant who has direct contact with a child who is receiving child care from the applicant to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

(2) Report to the division any:

(A) police investigations;

(B) arrests; and

(C) criminal convictions;

of which the applicant is aware regarding the applicant or an employee or volunteer described in subdivision (1).

An applicant shall require an individual described in subdivision (1) to apply for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.

As added by P.L.1-1993, SEC.141. Amended by P.L.61-1993, SEC.10; P.L.136-1993, SEC.11; P.L.2-1995, SEC.53; P.L.109-2002, SEC.7; P.L.241-2003, SEC.6; P.L.145-2006, SEC.97; P.L.287-2013, SEC.8.

IC 12-17.2-4-3.3

Meet certain requirements by July 1, 2014

Sec. 3.3. A person that holds a license under this chapter on July 1, 2013, shall, at no expense to the state, meet the requirements under section 3(e) of this chapter not later than July 1, 2014.

As added by P.L.287-2013, SEC.9.

IC 12-17.2-4-3.5

Drug testing

Sec. 3.5. (a) A child care center shall, at no expense to the state, maintain and make available to the division upon request a copy of drug testing results for an individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at the child care center. The drug testing results required under this subsection must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A child care center shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

(i) tobacco; or

(ii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of alcohol or an illegal substance;

is prohibited in the child care center when child care is being provided.

(2) That drug testing of individuals who serve as caregivers at the child care center will be:

(A) performed based on a protocol established or approved

by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) If:

(1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B); or

(2) an individual refuses to submit to a drug test;

the child care center shall immediately suspend or terminate the individual's employment or volunteer service.

(d) A child care center that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B).

(e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

(f) A child care center that does not comply with this section is subject to:

(1) denial of an application for a license; or

(2) suspension or revocation of a license issued;

under this chapter.

As added by P.L.18-2003, SEC.26. Amended by P.L.6-2004, SEC.3; P.L.16-2006, SEC.4.

IC 12-17.2-4-4
Repealed

(Repealed by P.L.61-1993, SEC.67 and P.L.136-1993, SEC.24.)

IC 12-17.2-4-5
Grounds for denial of license applications

Sec. 5. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child services established by IC 31-25-1-1 of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the applicant;

(B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, an employee of the applicant who has direct contact with children who are receiving child care from the applicant, or a volunteer of the applicant who has direct contact with children who are receiving child care from the applicant, of any of the following:

(A) A felony:

(i) related to the health or safety of a child;
(ii) that is a sex offense (as defined in IC 11-8-8-5.2);
(iii) that is a dangerous felony; or
(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.

(B) A misdemeanor related to the health or safety of a child.
(C) A misdemeanor for operating a child care center without a license under section 35 of this chapter, or a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.
(D) A misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(3) A determination by the division that the applicant made false statements in the applicant's application for licensure.
(4) A determination by the division that the applicant made false statements in the records required by the division.
(5) A determination by the division that the applicant previously operated a:
(A) child care center without a license under this chapter; or
(B) child care home without a license under IC 12-17.2-5.

(b) Notwithstanding subsection (a)(2), if:
(1) a license application is denied due to a criminal conviction of an employee or a volunteer of the applicant; and
(2) the division determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of the former employee or former volunteer does not require denial of a license application.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.12; P.L.1-1997, SEC.66; P.L.109-2002, SEC.8; P.L.146-2006, SEC.4; P.L.287-2013, SEC.10.

IC 12-17.2-4-6
Incomplete applications

Sec. 6. The division may not act on an incomplete application. The division shall return an incomplete application with a notation as to omissions. The return of an incomplete application shall be without prejudice.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-7
Investigations of applicants

Sec. 7. The division shall investigate a person seeking licensure to determine whether the person is in compliance with this article and

the rules adopted under this article. The investigation shall be conducted at a reasonable time and in a reasonable manner, in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The division may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-8
Issuance of licenses

Sec. 8. The division shall issue a license to a person who meets all of the license requirements when an investigation shows the applicant to be in compliance under this article.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-9
Eligibility for variances

Sec. 9. A child care center may be eligible to receive a variance from the requirements of this chapter by complying with IC 12-17.2-2-10.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-10
Denial of licenses

Sec. 10. (a) The division shall deny a license if an applicant fails to meet the requirements for a license.

(b) The division shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made within thirty (30) calendar days after receiving the written notice under subsection (b).

(d) The administrative hearing shall be scheduled within sixty (60) calendar days after receiving the written request.

(e) The administrative hearing shall be held in accordance with IC 4-21.5-3.

(f) The division shall issue a decision within sixty (60) calendar days after the conclusion of the hearing.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-11
Investigation of unlicensed premises

Sec. 11. The division shall investigate any premises that the division has reason to believe are being used for child care without a license in circumstances where a license is required.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-12
Expiration, transferability, display, and renewal of licenses; other information

Sec. 12. (a) A license for a child care center expires two (2) years after the date of issuance, unless revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the division.

(c) A current license shall be publicly displayed.

(d) When a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

(e) A licensee shall publicly display and make available, as a handout, written documentation of:

(1) any changes in the status of the licensee's license;

(2) a telephone number and an Internet site where information may be obtained from the division concerning:

(A) the current status of the licensee's license;

(B) any complaints filed with the division concerning the licensee; and

(C) violations of this article by the licensee; and

(3) a telephone number of the office of the Indiana child care resource and referral program of the county in which the child care center is located.

As added by P.L.1-1993, SEC.141. Amended by P.L.241-2003, SEC.7.

IC 12-17.2-4-13

Provisional licenses

Sec. 13. (a) The division may grant a provisional license to an applicant who is not able to demonstrate compliance with a rule because the child care center is not in full operation.

(b) A provisional license shall be granted for a limited period not to exceed one (1) year and is subject to review every three (3) months.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.13.

IC 12-17.2-4-14

Probationary licenses

Sec. 14. (a) The division may grant a probationary license to a licensee who is temporarily unable to comply with a rule if:

(1) the noncompliance does not present an immediate threat to the health and well-being of the children;

(2) the licensee files a plan with the division or the state fire marshal to correct the areas of noncompliance within the probationary period; and

(3) the division or state fire marshal approves the plan.

(b) A probationary license is valid for not more than six (6) months. The division may extend a probationary license for one (1)

additional period of six (6) months.

(c) An existing license is invalidated when a probationary license is issued.

(d) At the expiration of the probationary license, the division shall reinstate the original license to the end of the original term of the license, issue a new license, or revoke the license.

(e) Upon receipt of a probationary license, the licensee shall return to the division the previously issued license.

(f) The division shall:

(1) upon issuing a probationary license under this section, provide written notice to the licensee that the division will provide the notice required under subdivision (2); and

(2) not more than seven (7) days after issuing a probationary license under this section, publish notice under IC 5-3-1 and provide written notice to the parent or guardian of each child enrolled in the child care center of the:

(A) issuance of the probationary license; and

(B) reason for the issuance of the probationary license.

As added by P.L.1-1993, SEC.141. Amended by P.L.241-2003, SEC.8.

IC 12-17.2-4-15

Inspections

Sec. 15. The division and the state fire marshal shall do the following:

(1) Make annual onsite inspections.

(2) Keep written records of their monitoring activities and inspections.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-16

Cooperation by licensees

Sec. 16. The licensee shall cooperate with the division and the state fire marshal in carrying out these activities, including permitting the division and the state fire marshal to conduct announced or unannounced inspections.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-17

Unscheduled visits by parents and guardians

Sec. 17. Unscheduled visits by a custodial parent or guardian of a child shall be permitted at any time the child care center is in operation.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-17.5

Supervision of children

Sec. 17.5. A licensee shall ensure that a child in the licensee's care is continually supervised by a caregiver.

As added by P.L.18-2003, SEC.27.

IC 12-17.2-4-18
Records

Sec. 18. (a) A licensee shall keep records regarding each child in the control and care of the licensee as the division requires and shall report to the division, upon request, the facts the division requires with reference to children.

(b) The division shall keep records regarding children and facts learned about children and their parents or relatives confidential.

(c) The following are permitted access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child care center.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the child care center.

(5) The parent, guardian, or custodian of the child at the child care center.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-18.1
Immunizations

Sec. 18.1. (a) After December 31, 2002, a licensee shall maintain and annually update documentation provided by the physician of each child who is cared for in a child care center where the licensee provides child care that the child has received complete age appropriate immunizations, including:

(1) conjugated pneumococcal vaccine; and

(2) varicella vaccine or a demonstrated immunity to varicella.

The state department of health shall determine for each age level the immunizations that constitute complete age appropriate immunizations.

(b) A licensee meets the requirement of subsection (a) if:

(1) a child's parent:

(A) objects to immunizations for religious reasons; and

(B) provides documentation of the parent's objection;

(2) the child's physician provides documentation of a medical reason the child should not be immunized; or

(3) the child's physician provides documentation that the child is currently in the process of receiving complete age appropriate immunizations;

and the licensee maintains and annually updates the documentation provided by the parent or physician under this subsection.

As added by P.L.121-2002, SEC.2. Amended by P.L.18-2003, SEC.28.

IC 12-17.2-4-18.5
Duties of child care centers regarding missing child reports

Sec. 18.5. (a) Upon receiving a report under IC 31-36-1-4, a child care center shall thoroughly inspect the report. If the child care center

finds that a child on the report required under IC 31-36-1-4 is enrolled at the child care center, the child care center shall immediately notify the Indiana clearinghouse for information on missing children and missing endangered adults.

(b) Upon receiving a report under IC 31-36-1-4, a child care center shall attach a notice to the child's enrollment records stating that the child has been reported missing. The child care center shall remove the notice when the center is notified under IC 31-36-2-6 that the child has been found.

(c) If a request for the enrollment records of a missing child is received, the child care center shall:

(1) obtain:

(A) the name, address, and telephone number of the person making the request; and

(B) the reason that the person is requesting the school records; and

(2) immediately notify the Indiana clearinghouse for information on missing children and missing endangered adults.

(d) The child care center may not issue a copy of the enrollment records of a child reported missing without authorization from the Indiana clearinghouse for information on missing children and missing endangered adults and may not inform the person making the request that a notice that the child has been reported missing has been attached to the child's records.

As added by P.L.12-1994, SEC.8. Amended by P.L.1-1997, SEC.67; P.L.43-2009, SEC.14.

IC 12-17.2-4-18.7

Violations posing immediate threat to life or well-being of child; orders

Sec. 18.7. (a) The division shall adopt rules under IC 4-22-2 to establish a list of violations of this article that would pose an immediate threat to the life or well-being of a child in the care of a licensee.

(b) If an employee or agent of the division determines that a violation described in subsection (a) exists, the division shall:

(1) issue an emergency or another temporary order under IC 4-21.5-4 requiring the licensee to immediately cease operation of the child care center; and

(2) contact the parent or guardian of each child enrolled in the child care center to inform the parent or guardian:

(A) that the division has issued an order to require the licensee to cease operation of the child care center; and

(B) of the reason for the order to cease operation;

pending the outcome of proceedings conducted under sections 20 through 22 of this chapter.

(c) An emergency or another temporary order issued by an employee or agent of the division must be approved by the director.

(d) An approval under subsection (c) may be communicated orally to the employee or agent issuing the order. However, the division

shall maintain a written record of the approval.
As added by P.L.241-2003, SEC.9.

IC 12-17.2-4-19
Notice of enforcement actions; informal meetings

Sec. 19. Except as provided in section 18.7 or 29 of this chapter, the division shall give a licensee thirty (30) calendar days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the division. The licensee must request the meeting within ten (10) working days after receipt of the certified notice.
As added by P.L.1-1993, SEC.141. Amended by P.L.241-2003, SEC.10.

IC 12-17.2-4-20
Administrative hearings

Sec. 20. (a) An administrative hearing concerning the decision of the division to impose a sanction under this chapter shall be provided upon a written request by the child care center. The request must be made within thirty (30) calendar days after receiving notice under section 18.7 or 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.

(b) The administrative hearing shall be held within sixty (60) calendar days after receiving the written request.
As added by P.L.1-1993, SEC.141. Amended by P.L.241-2003, SEC.11.

IC 12-17.2-4-21
Procedure for administrative hearings

Sec. 21. A hearing requested under section 20 of this chapter shall be held in accordance with IC 4-21.5-3.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-22
Issuance of decisions

Sec. 22. The division shall issue a decision within sixty (60) calendar days after the conclusion of the hearing.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-23
Cessation of operations upon suspension of license

Sec. 23. If a license is suspended, a licensed child care center shall cease operation and may not display the license.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-24
Reinstatement of suspended licenses

Sec. 24. To reinstate a suspended license the following must occur:

(1) The licensee must, within thirty (30) days of the notice of the suspension, submit a plan of corrective action to the division for approval.
(2) The plan must outline the steps and timetable for immediate correction of the violations that caused the division to suspend the license.
(3) The division must approve the plan.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-25
Actions of division following suspensions of licenses
Sec. 25. Following the suspension, the division shall do one (1) of the following:
(1) Reinstate the license for the term of the original license.
(2) Revoke the license.
(3) Issue a new license.
(4) Deny a reapplication.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-26
Cessation of operations upon revocation of license
Sec. 26. A child care center shall cease operation when the license of the child care center is revoked.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-27
Notice of license revocation or suspension
Sec. 27. (a) After a license is revoked or suspended, the division shall publish notice under IC 5-3-1 and notify in writing each person responsible for the children in care that the license has been revoked or suspended.
(b) The written notice shall be sent to the last known address of the person responsible for the child in care and shall state that the license of the child care center has been revoked or suspended.
As added by P.L.1-1993, SEC.141. Amended by P.L.241-2003, SEC.12.

IC 12-17.2-4-28
Judicial review
Sec. 28. A final decision of the division made after a hearing is subject to judicial review under IC 4-21.5-5.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-29
Investigation of unlicensed facilities; injunctions; civil penalties; removal of children
Sec. 29. (a) The division shall investigate a report of an unlicensed child care center and report the division's findings to the attorney general and to the division's attorney and the prosecuting attorney in the county where the child care center is located.

(b) The attorney general or the division's attorney may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child care center if there is reasonable cause to believe that:

(A) the child care center is operating without a license required under this article; or

(B) a licensee's noncompliance with this article and the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars ($100) a day for each day a child care center is operating without a license required under this article.

(c) The division may provide for the removal of children from child care centers described in subsection (b).

(d) An opportunity for an informal meeting with the division shall be available after the injunctive relief is ordered.

(e) The civil penalties collected under this section shall be deposited in the division of family resources child care fund established by IC 12-17.2-2-3.

(f) Section 34 of this chapter does not apply to the civil penalties imposed under this section.

As added by P.L.1-1993, SEC.141. Amended by P.L.145-2006, SEC.98; P.L.1-2007, SEC.123.

IC 12-17.2-4-30

Expiration of injunctions for operation without a license

Sec. 30. A court order granted under section 29(b)(2)(A) of this chapter expires when the child care center is issued a license.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-31

Expiration of injunctions for creation of imminent danger

Sec. 31. A court order granted under section 29(b)(2)(B) of this chapter expires upon the later of the following:

(1) Sixty (60) calendar days after the order is issued.

(2) When a final division decision is issued under sections 20 through 22 of this chapter if notice of an enforcement action is issued under section 19 of this chapter.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-32

Grounds for revocation of licenses

Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child services of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, an employee of the licensee who has direct contact with children who are receiving child care from the licensee, or a volunteer of the licensee who has direct contact with children who are receiving child care from the licensee, of any of the following:

(A) A felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center without a license under section 35 of this chapter, or a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(D) A misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(3) A determination by the division that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the division that the licensee made false statements in the records required by the division.

(5) A determination by the division that the licensee previously operated a:

(A) child care center without a license under this chapter; or

(B) child care home without a license under IC 12-17.2-5.

(b) Notwithstanding subsection (a)(2), if:

(1) a license is revoked due to a criminal conviction of an employee or a volunteer of the licensee; and

(2) the division determines that the employee or volunteer has been dismissed by the licensee;

the criminal conviction of the former employee or former volunteer does not require revocation of a license.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.14; P.L.1-1997, SEC.68; P.L.109-2002, SEC.9; P.L.146-2006, SEC.5; P.L.287-2013, SEC.11.

IC 12-17.2-4-33
Disciplinary sanctions

Sec. 33. (a) A licensee shall operate a child care center in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the division finds that the licensee has violated this article.

(b) The division may impose any of the following sanctions when the division finds that a licensee has committed a violation under subsection (a):

(1) After complying with the procedural provisions in sections 19 through 22 of this chapter:

(A) suspend the license for not more than six (6) months; or

(B) revoke the license.

(2) Seek civil remedies under section 29 of this chapter.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-34
Civil penalty for violation of article

Sec. 34. (a) In addition to the other penalties imposed under this chapter, the division may impose a civil penalty of not more than one thousand dollars ($1,000) for the violation of this article.

(b) The division shall deposit the civil penalties collected under this section in the division of family resources child care fund established by IC 12-17.2-2-3.

As added by P.L.1-1993, SEC.141. Amended by P.L.145-2006, SEC.99.

IC 12-17.2-4-35
Violations of chapter

Sec. 35. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-4-36
Investigation of abuse or neglect; child care center

Sec. 36. (a) The department of child services shall conduct an investigation of a claim of abuse or neglect in a child care center.

(b) After an investigation under subsection (a), the department of child services shall make a determination of whether or not abuse or neglect occurred at the child care center.

(c) If the department of child services makes a determination under IC 31-33-8-12 that abuse or neglect at the child care center is substantiated, the department shall send a copy of its report to the appropriate licensing office of the division.

As added by P.L.146-2006, SEC.6.

IC 12-17.2-5

Chapter 5. Regulation of Child Care Homes

IC 12-17.2-5-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 6.3(a) of this chapter by P.L.247-2001 does not apply to a person who was issued a license for a class I child care home before July 1, 2001.

As added by P.L.220-2011, SEC.269.

IC 12-17.2-5-1

Operation of home without proper licensure; prohibition

Sec. 1. (a) A person may not operate a child care home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a child care home without a license issued under this article.

(c) A person may not operate a child care home if:

(1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; and

(2) the children are maintained in a building or place not designated by the license.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.16.

IC 12-17.2-5-2

Consultation with fire prevention and building safety commission

Sec. 2. The fire prevention and building safety commission must provide consultation regarding the licensure of child care homes to the division upon request.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-3

Applying for licenses; national criminal history background check

Sec. 3. (a) An applicant must apply for a child care home license on forms provided by the division.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting that the applicant has not been:

(1) convicted of:

(A) a felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; and

(2) charged with:

(A) a felony;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or with a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter, or with a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;

during the pendency of the application.

(d) An applicant must submit:

(1) the necessary information, forms, or consents; and

(2) the fingerprints of the applicant and the applicant's spouse;

for a national criminal history background check by Federal Bureau of Investigation.

(e) Subject to section 3.3 of this chapter, an applicant shall require:

(1) an employee or a volunteer of the applicant who has direct contact with a child who is receiving child care from the applicant; and

(2) the applicant's household members who are:

(A) at least eighteen (18) years of age; or

(B) less than eighteen (18) years of age but have previously been waived from juvenile court to adult court;

to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation. An applicant shall require an individual described in subdivision (1) to apply for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.

(f) In addition to the requirements under subsections (d) and (e), an applicant must report to the division any:

(A) police investigations;

(B) arrests; and

(C) criminal convictions;

of which the applicant is aware regarding the applicant, the applicant's spouse, or a person described in subsection (e).

As added by P.L.1-1993, SEC.141. Amended by P.L.61-1993, SEC.11; P.L.136-1993, SEC.15; P.L.109-2002, SEC.10; P.L.241-2003, SEC.13; P.L.145-2006, SEC.100; P.L.287-2013, SEC.12.

IC 12-17.2-5-3.3

Meet certain requirements by July 1, 2014

Sec. 3.3. A person that holds a license under this chapter on July 1, 2013, shall, at no expense to the state, meet the requirements under section 3(e) of this chapter not later than July 1, 2014.

As added by P.L.287-2013, SEC.13.

IC 12-17.2-5-3.5

Drug testing

Sec. 3.5. (a) A child care home shall, at no expense to the state, maintain and make available to the division upon request a copy of drug testing results for:

(1) the provider;

(2) an individual who resides with the provider and who is at least eighteen (18) years of age; and

(3) an individual who:

(A) is employed; or

(B) volunteers;

as a caregiver at the child care home.

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A child care home shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

(i) tobacco;

(ii) alcohol; or

(iii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of an illegal substance;

is prohibited in the child care home when child care is being provided.

(2) That drug testing of individuals who serve as caregivers at the child care home will be:

(A) performed based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) If:

(1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in

subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B); or

(2) an individual refuses to submit to a drug test;

the child care home shall immediately suspend or terminate the individual's employment or volunteer service.

(d) A child care home that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B).

(e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

(f) A child care home that does not comply with this section is subject to:

(1) denial of an application for a license; or

(2) suspension or revocation of a license issued;

under this chapter.

As added by P.L.18-2003, SEC.29. Amended by P.L.6-2004, SEC.4; P.L.16-2006, SEC.5.

IC 12-17.2-5-4

Grounds for denial of license applications

Sec. 4. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child services established by IC 31-25-1-1 of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the applicant;

(B) a member of the applicant's household;

(C) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(D) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are direct supervision of the applicant.

(2) A criminal conviction of the applicant, an employee of the applicant who has direct contact with children who are receiving child care from the applicant, a volunteer of the applicant who has direct contact with children who are receiving child care from the applicant, or a member of the applicant's household, of any of the following:

(A) A felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.

(B) A misdemeanor related to the health or safety of a child.
(C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.
(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter, or a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.
(3) A determination by the division that the applicant made false statements in the applicant's application for licensure.
(4) A determination by the division that the applicant made false statements in the records required by the division.
(5) A determination by the division that the applicant previously operated a:
(A) child care center without a license under IC 12-17.2-4; or
(B) child care home without a license under this chapter.
(b) Notwithstanding subsection (a)(2), if:
(1) a license application is denied due to a criminal conviction of:
(A) an employee or a volunteer of the applicant; or
(B) a member of the applicant's household; and
(2) the division determines that the:
(A) employee or volunteer has been dismissed by the applicant; or
(B) member of the applicant's household is no longer a member of the applicant's household;
the criminal conviction of the former employee, former volunteer, or former member does not require denial of a license application.
As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.17; P.L.1-1997, SEC.69; P.L.109-2002, SEC.11; P.L.146-2006, SEC.7; P.L.124-2007, SEC.5; P.L.287-2013, SEC.14.

IC 12-17.2-5-5
Incomplete applications
Sec. 5. The division may not act on an incomplete application. The division shall return an incomplete application with a notation as to omissions. The return of an incomplete application shall be without prejudice.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-6
Investigation of applicants
Sec. 6. The division shall investigate a person seeking licensure to determine whether the person is in compliance with this article. The investigation shall be conducted any time the home is in operation in announced or unannounced visits. Activities may include onsite

inspections, record reading, observation, and interviewing. The division may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-6.3
Class I child care home

Sec. 6.3. (a) To qualify for a license to operate a class I child care home under this chapter, a person must do the following:

(1) Provide documentation to the division that the licensee has received a high school diploma or a high school equivalency certificate as described in IC 12-14-5-2.

(2) Provide documentation to the division that the licensee:

(A) has completed;

(B) is enrolled in; or

(C) agrees to complete within the next three (3) years;

a child development associate credential program or a similar program approved by the division.

(3) Complete the training course taught or approved by the division concerning safe sleeping practices for a child within the person's care as described in IC 12-17.2-2-1(10).

The division may grant a waiver or variance of the requirement under subdivision (2).

(b) A class I child care home may serve a school age child during a break in the school year that exceeds four (4) weeks if the following conditions are met:

(1) The school age child:

(A) was in the home part time during the four (4) months preceding the break; or

(B) has a sibling attending the child care home.

(2) The child care home meets the following requirements:

(A) Provides at least thirty-five (35) square feet for each child.

(B) Maintains the child to staff ratio required under rules adopted by the division for each age group of children in attendance.

(C) Provides age appropriate toys, games, equipment, and activities for each age group of children enrolled.

(D) If the licensee does not reside in the child care home, the child care home has:

(i) at least two (2) exits that comply with the exit requirements for an E-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission; and

(ii) an illuminated exit sign over each required exit or emergency lighting for each required exit.

(3) The licensee for the child care home has maintained a class I child care home license for at least twelve (12) children:

(A) for at least one (1) year; and

(B) without any citations for noncompliance.

As added by P.L.247-2001, SEC.8. Amended by P.L.162-2005, SEC.3.

IC 12-17.2-5-6.5
Qualification for licensure of class II child care home

Sec. 6.5. (a) To qualify for a license to operate a class II child care home under this chapter, a person must do the following:

(1) Provide all child care services on the first story of the child care home unless the class II child care home meets the exceptions to the first story requirements contained in the Indiana building code adopted by the fire prevention and building safety commission in effect at the time the class II child care home provider applies for licensure.

(2) Provide a smoke detection system that is:

(A) hard wired to the building's electrical system; and

(B) wired in a manner that activates all of the detector devices in the building when one (1) detector device is activated.

(3) Provide a fire extinguisher in each room that is used to provide child care services.

(4) Meet:

(A) the exit requirements for an E-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission, except for any illumination requirements, in effect at the time the class II child care home provider initially applies for licensure; and

(B) the illumination requirements established in section 6.3(b)(2)(D) of this chapter.

(5) Provide a minimum of thirty-five (35) square feet for each child.

(6) Conduct fire drills required under article 37 of the Indiana fire prevention code adopted by the fire prevention and building safety commission in effect at the time the class II child care home provider applies for licensure.

(7) Apply for a license before July 1, 1996, or after June 30, 2001.

(8) Comply with rules adopted by the division of family resources for class II child care homes.

(9) Complete the training course taught or approved by the division concerning safe sleeping practices for a child within the person's care as described in IC 12-17.2-2-1(10).

(b) To qualify for a license to operate a class II child care home under this chapter, a person, before applying for the license, must have:

(1) a class I child care home license; or

(2) at least one (1) year of experience as a caregiver in a child care home or child care center.

As added by P.L.136-1993, SEC.18. Amended by P.L.106-1996, SEC.2; P.L.247-2001, SEC.9; P.L.162-2005, SEC.4; P.L.145-2006,

SEC.101.

IC 12-17.2-5-7
Issuance of licenses

Sec. 7. The division shall issue a license to a person who meets all of the license requirements when an investigation shows the applicant to be in compliance under this article.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-7.5
License indication of class I or II child care home; sanctions for noncompliance with number of children or requirements of home within class

Sec. 7.5. (a) The license issued to a person for the operation of a child care home under section 7 of this chapter shall indicate whether the child care home is licensed as a class I child care home or a class II child care home.

(b) A person who:

(1) holds a license to operate a class I child care home; and

(2) at any time serves a number of children greater than the number allowed under IC 12-7-2-33.7;

is subject to sanctions under section 33 of this chapter, a civil penalty under section 34 of this chapter, and the criminal penalty set forth in section 35 of this chapter.

(c) A person who:

(1) holds a license to operate a class II child care home; and

(2) at any time:

(A) serves a number of children greater than the number allowed under IC 12-7-2-33.8; or

(B) fails to comply with the requirements for class II child care homes set forth in section 6.5 of this chapter;

is subject to sanctions under section 33 of this chapter, a civil penalty under section 34 of this chapter, and the criminal penalty set forth in section 35 of this chapter.
As added by P.L.136-1993, SEC.19.

IC 12-17.2-5-8
Eligibility for waivers and variances

Sec. 8. A child care home may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 12-17.2-2-10.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-9
Denial of licenses

Sec. 9. (a) The division shall deny a license when an applicant fails to meet the requirements for a license.

(b) The division shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license

shall be provided upon written request by the applicant. The request must be made within thirty (30) calendar days after receiving the written notice under subsection (b).

(d) The administrative hearing shall be held within sixty (60) calendar days after receiving the written request.

(e) The administrative hearing shall be held in accordance with IC 4-21.5-3.

(f) The division shall issue a decision within sixty (60) calendar days after the conclusion of the hearing.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-10

Delegation of investigations; issuance or notification of denial of licenses; supervision and monitoring

Sec. 10. (a) The division may delegate the investigation of child care homes to a person. The person is responsible for completing a child care home licensing study that shows substantial compliance with child care rules and is the basis of a recommendation for licensure to the division.

(b) The division shall issue the license or notify the person if a license is not to be issued, giving the reasons for the denial.

(c) After licensure, the person shall supervise and monitor the child care home in relation to the rules for licensure and shall recommend subsequent licensing and enforcement actions.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-11

Investigation of unlicensed premises

Sec. 11. The division shall investigate any premises that the division has reason to believe are being used for child care without a license in circumstances where a license is required.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-12

Expiration, transferability, display, and renewal of licenses; other information

Sec. 12. (a) A license for a child care home expires two (2) years after the date of issuance, unless revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the division.

(c) A current license shall be publicly displayed.

(d) When a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

(e) A licensee shall publicly display and make available, as a handout, written documentation of:

(1) any changes in the status of the licensee's license; and
(2) a telephone number and an Internet site where information may be obtained from the division regarding:
(A) the current status of the licensee's license;
(B) any complaints filed with the division concerning the licensee; and
(C) violations of this article by the licensee; and
(3) a telephone number of the office of the Indiana child care resource and referral program of the county in which the child care home is located.

As added by P.L.1-1993, SEC.141. Amended by P.L.241-2003, SEC.14.

IC 12-17.2-5-13
Provisional licenses

Sec. 13. (a) The division may grant a provisional license to an applicant who is not able to demonstrate compliance with a rule because the child care home is not in full operation.

(b) The provisional license shall be granted for not more than one (1) year and is subject to review every three (3) months.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-14
Probationary licenses

Sec. 14. (a) The division may grant a probationary license to a licensee who is temporarily unable to comply with a rule if:
(1) the noncompliance does not present an immediate threat to the health and well-being of the children;
(2) the licensee files a plan with the division to correct the areas of noncompliance within the probationary period; and
(3) the division approves the plan.

(b) A probationary license is valid for not more than six (6) months. The division may extend a probationary license for one (1) additional period of six (6) months.

(c) An existing license is invalidated when a probationary license is issued.

(d) At the expiration of the probationary license, the division shall reinstate the original license to the end of the original term of the license, issue a new license, or revoke the license.

(e) Upon receipt of a probationary license, the licensee shall return to the division the previously issued license.

(f) The division shall:
(1) upon issuing a probationary license under this section, provide written notice to the licensee that the division will provide the notice required under subdivision (2); and
(2) not more than seven (7) days after issuing a probationary license under this section, publish notice under IC 5-3-1 and provide written notice to the parent or guardian of each child enrolled in the child care home of the:
(A) issuance of the probationary license; and

(B) reason for the issuance of the probationary license.
As added by P.L.1-1993, SEC.141. Amended by P.L.241-2003, SEC.15.

IC 12-17.2-5-15
Inspections
Sec. 15. The division shall do the following:
(1) Make annual onsite inspections.
(2) Keep written records of the division's monitoring activities and inspections.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-16
Cooperation by licensees
Sec. 16. The licensee shall cooperate with the division in carrying out these activities, including permitting the division to conduct announced or unannounced inspections.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-17
Unscheduled visits by parents and guardians
Sec. 17. Unscheduled visits by a custodial parent or guardian of a child shall be permitted at any time the child care home is in operation.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-17.5
Supervision of children
Sec. 17.5. A licensee shall ensure that a child in the licensee's care is continually supervised by a caregiver.
As added by P.L.18-2003, SEC.30.

IC 12-17.2-5-18
Records
Sec. 18. (a) A licensee shall keep records regarding each child in the control and care of the licensee as the division requires and shall report to the division, upon request, the facts the division requires with reference to children.
(b) The division shall keep records regarding children and facts learned about children and their parents or relatives confidential.
(c) The following are permitted access to records regarding children and facts learned about children:
(1) A state agency involved in the licensing of the child care home.
(2) A legally mandated child protection agency.
(3) A law enforcement agency.
(4) An agency having the legal responsibility to care for a child placed at the child care home.
(5) The parent, guardian, or custodian of the child at the child care home.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-18.1
Immunizations

Sec. 18.1. (a) After December 31, 2002, a licensee shall maintain and annually update documentation provided by the physician of each child who is cared for in a child care home where the licensee provides child care that the child has received complete age appropriate immunizations, including:

(1) conjugated pneumococcal vaccine; and

(2) varicella vaccine or a demonstrated immunity to varicella.

The state department of health shall determine for each age level the immunizations that constitute complete age appropriate immunizations.

(b) A licensee meets the requirement of subsection (a) if:

(1) a child's parent:

(A) objects to immunizations for religious reasons; and

(B) provides documentation of the parent's objection;

(2) the child's physician provides documentation of a medical reason the child should not be immunized; or

(3) the child's physician provides documentation that the child is currently in the process of receiving complete age appropriate immunizations;

and the licensee maintains and annually updates the documentation provided by the parent or physician under this subsection.

As added by P.L.121-2002, SEC.3. Amended by P.L.18-2003, SEC.31.

IC 12-17.2-5-18.2
Certifications required

Sec. 18.2. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by the child care home shall be present at all times when a child is in the care of a child care home.

(b) An individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at a child care home shall maintain current certification in first aid applicable to all age groups of children cared for by the child care home.

As added by P.L.18-2003, SEC.32.

IC 12-17.2-5-18.6
Duties of child care home regarding missing child reports

Sec. 18.6. (a) Upon receiving a report under IC 31-36-1-4, a child care home shall thoroughly inspect the report. If the child care home finds that a child on the report required under IC 31-36-1-4 is enrolled at the child care home, the child care home shall immediately notify the Indiana clearinghouse for information on

missing children and missing endangered adults.

(b) Upon receiving a report under IC 31-36-1-4, a child care home shall attach a notice to the child's enrollment records stating that the child has been reported missing. The child care home shall remove the notice when the center is notified under IC 31-36-2-6 that the child has been found.

(c) If a request for the enrollment records of a missing child is received, the child care home shall:

(1) obtain:

(A) the name, address, and telephone number of the person making the request; and

(B) the reason that the person is requesting the school records; and

(2) immediately notify the Indiana clearinghouse for information on missing children and missing endangered adults.

(d) The child care home may not issue a copy of the enrollment records of a child reported missing without authorization from the Indiana clearinghouse for information on missing children and missing endangered adults and may not inform the person making the request that a notice that the child has been reported missing has been attached to the child's records.

As added by P.L.12-1994, SEC.9. Amended by P.L.1-1997, SEC.70; P.L.43-2009, SEC.15.

IC 12-17.2-5-18.7

Violations posing immediate threat to life or well-being of child; orders

Sec. 18.7. (a) The division shall adopt rules under IC 4-22-2 to establish a list of violations of this article that would pose an immediate threat to the life or well-being of a child in the care of a licensee.

(b) If an employee or agent of the division determines that a violation described in subsection (a) exists, the division shall:

(1) issue an emergency or another temporary order under IC 4-21.5-4 requiring the licensee to immediately cease operation of the child care home; and

(2) contact the parent or guardian of each child enrolled in the child care home to inform the parent or guardian:

(A) that the division has issued an order to require the licensee to cease operation of the child care home; and

(B) of the reason for the order to cease operation;

pending the outcome of proceedings conducted under sections 20 through 22 of this chapter.

(c) An emergency or another temporary order issued by an employee or agent of the division must be approved by the director.

(d) An approval under subsection (c) may be communicated orally to the employee or agent issuing the order. However, the division shall maintain a written record of the approval.

As added by P.L.241-2003, SEC.16.

IC 12-17.2-5-19
Notice of enforcement actions; informal meetings

Sec. 19. Except as provided in section 18.7 or 29 of this chapter, the division shall give a licensee thirty (30) calendar days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the division. The licensee must request the meeting within ten (10) working days after receipt of the certified notice.

As added by P.L.1-1993, SEC.141. Amended by P.L.241-2003, SEC.17.

IC 12-17.2-5-20
Administrative hearings

Sec. 20. (a) An administrative hearing concerning the decision of the division to impose a sanction under this chapter shall be provided upon a written request by the child care home. The request must be made within thirty (30) calendar days after receiving notice under section 18.7 or 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.

(b) The administrative hearing shall be held within sixty (60) calendar days after receiving the written request.

As added by P.L.1-1993, SEC.141. Amended by P.L.241-2003, SEC.18.

IC 12-17.2-5-21
Procedure for administrative hearings

Sec. 21. A hearing requested under section 20 of this chapter shall be held in accordance with IC 4-21.5-3.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-22
Issuance of decisions

Sec. 22. The division shall issue a decision within sixty (60) calendar days after the conclusion of the hearing.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-23
Cessation of operations upon suspension of license

Sec. 23. If a license is suspended, a licensed child care home shall cease operation and may not display the license.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-24
Reinstatement of suspended licenses

Sec. 24. To reinstate a suspended license, the following must occur:

(1) The licensee must, within thirty (30) days of the notice of the suspension, submit a plan of corrective action to the division for approval.

(2) The plan must outline the steps and timetable for immediate correction of the violations that caused the division to suspend the license.

(3) The division must approve the plan.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-25

Actions of division following suspensions of licenses

Sec. 25. Following the suspension, the division shall do one (1) of the following:

(1) Reinstate the license for the term of the original license.

(2) Revoke the license.

(3) Issue a new license.

(4) Deny a reapplication.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-26

Cessation of operations upon revocation of license

Sec. 26. A child care home shall cease operation when the license of the child care home is revoked.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-27

Notice of license revocation or suspension

Sec. 27. (a) After a license is revoked or suspended, the division shall publish notice under IC 5-3-1 and notify in writing each person responsible for the children in care that the license has been revoked or suspended.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and shall state that the license of the child care home has been revoked or suspended.

As added by P.L.1-1993, SEC.141. Amended by P.L.241-2003, SEC.19.

IC 12-17.2-5-28

Judicial review

Sec. 28. A final decision of the division made after a hearing is subject to judicial review under IC 4-21.5-5.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-29

Investigation of unlicensed facilities; injunctions; civil penalties; removal of children

Sec. 29. (a) The division shall investigate a report of an unlicensed child care home and report the division's findings to the attorney general and to the division's attorney and the prosecuting attorney in the county where the child care home is located.

(b) The attorney general or the county department of public welfare attorney may do the following:

(1) Seek the issuance of a search warrant to assist in the

investigation.

(2) File an action for injunctive relief to stop the operation of a child care home if there is reasonable cause to believe that:

(A) the child care home is operating without a license required under this article; or

(B) a licensee's noncompliance with this article and the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars ($100) a day for each day a child care home is operating without a license required under this article.

(c) The division may provide for the removal of children from child care homes described in subsection (b).

(d) An opportunity for an informal meeting with the division shall be available after the injunctive relief is ordered.

(e) The civil penalties collected under this section shall be deposited in the division of family resources child care fund established by IC 12-17.2-2-3.

(f) Section 34 of this chapter does not apply to the civil penalties imposed under this section.

As added by P.L.1-1993, SEC.141. Amended by P.L.145-2006, SEC.102; P.L.1-2007, SEC.124.

IC 12-17.2-5-30

Expiration of injunctions for operation without a license

Sec. 30. A court order granted under section 29(b)(2)(A) of this chapter expires when the child care home is issued a license.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-31

Expiration of injunctions for creation of imminent danger

Sec. 31. A court order granted under section 29(b)(2)(B) of this chapter expires upon the later of the following:

(1) Sixty (60) calendar days after the order is issued.

(2) When a final division decision is issued under sections 20 through 22 of this chapter if notice of an enforcement action is issued under section 19 of this chapter.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-32

Grounds for revocation of licenses

Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child services of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the licensee;

(B) a member of the licensee's household;

(C) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under

the direct supervision of the licensee; or

(D) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, an employee of the licensee who has direct contact with children who are receiving child care from the licensee, a volunteer of the licensee who has direct contact with children who are receiving child care from the licensee, or a member of the licensee's household, of any of the following:

(A) A felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter, or a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(3) A determination by the division that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the division that the licensee made false statements in the records required by the division.

(5) A determination by the division that the licensee previously operated a:

(A) child care center without a license under IC 12-17.2-4; or

(B) child care home without a license under this chapter.

(b) Notwithstanding subsection (a)(2), if:

(1) a license is revoked due to a criminal conviction of:

(A) an employee or a volunteer of the licensee's; or

(B) a resident of the licensee's household; and

(2) the division determines that the:

(A) employee or volunteer has been dismissed by the licensee; or

(B) member of the licensee's household is no longer a member of the licensee's household;

the criminal conviction of the former employee, former volunteer, or former member does not require revocation of a license.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.20; P.L.1-1997, SEC.71; P.L.109-2002, SEC.12; P.L.146-2006, SEC.8; P.L.124-2007, SEC.6; P.L.287-2013, SEC.15.

IC 12-17.2-5-33
Disciplinary sanctions

Sec. 33. (a) A licensee shall operate a child care home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the division finds that the licensee has violated this article.

(b) The division may impose any of the following sanctions when the division finds that a licensee has committed a violation under subsection (a):

(1) After complying with the procedural provisions in sections 19 through 22 of this chapter:

(A) suspend the license for not more than six (6) months; or

(B) revoke the license.

(2) Seek civil remedies under section 29 of this chapter.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-34
Civil penalty for violation of article

Sec. 34. (a) In addition to the other penalties imposed under this chapter, the division may impose a civil penalty of not more than one thousand dollars ($1,000) for the violation of this article.

(b) The division shall deposit the civil penalties collected under this section in the division of family resources child care fund established by IC 12-17.2-2-3.

As added by P.L.1-1993, SEC.141. Amended by P.L.145-2006, SEC.103.

IC 12-17.2-5-35
Violations of chapter

Sec. 35. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-5-36
Prohibition of care home classification for E building occupancy

Sec. 36. The fire prevention and building safety commission may not adopt rules that classify a child care home as an E building occupancy classification.

As added by P.L.136-1993, SEC.21.

IC 12-17.2-5-37
Investigation of abuse or neglect; child care home

Sec. 37. (a) The department of child services shall conduct an investigation of a claim of abuse or neglect at a child care home.

(b) After an investigation under subsection (a), the department of child services shall make a determination of whether or not abuse or

neglect occurred at the child care home.

(c) If the department of child services makes a determination under IC 31-33-8-12 that abuse or neglect at the child care home is substantiated, the department shall send a copy of its report to the appropriate licensing office at the division.

As added by P.L.146-2006, SEC.9.

IC 12-17.2-6

Chapter 6. Regulation of Child Care Ministries

IC 12-17.2-6-1

Licensure of ministries

Sec. 1. A child care ministry is exempt from licensure under this article if the child care ministry complies with this chapter. However, a child care ministry may apply for licensure. If a license is issued to the child care ministry, the child care ministry shall comply with state laws and rules governing licensure of the type of facility that the ministry operates.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-2

Operation of unlicensed ministries

Sec. 2. An unlicensed child care ministry under section 1 of this chapter may not operate unless the child care ministry has registered with and met the requirements of the division and the division of fire and building safety. Registration forms shall be provided by the division and the division of fire and building safety.

As added by P.L.1-1993, SEC.141. Amended by P.L.1-2006, SEC.193.

IC 12-17.2-6-3

Registration of licensed ministries

Sec. 3. The operator of a licensed child care ministry under section 1 of this chapter shall register under section 2 of this chapter at least ninety (90) days before the expiration of the child care ministry's license or ninety (90) days before surrendering the license.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-4

Inspection of unlicensed ministries by division

Sec. 4. (a) The division shall inspect a child care ministry registered under section 2 of this chapter to ensure that the child care ministry complies with the rules of the division adopted under IC 12-17.2-2-5(a).

(b) The division shall make an inspection described in subsection (a):

(1) at least semiannually; and

(2) additionally as determined necessary by the division, but not more than four (4) inspections per year per child care ministry.

As added by P.L.1-1993, SEC.141. Amended by P.L.16-2006, SEC.6.

IC 12-17.2-6-5

Rules for fire prevention and inspection of unlicensed ministries

Sec. 5. (a) As used in this section, "primary use of the building" means the occupancy classification that is:

(1) most closely related to the intended use of the building; and

(2) determined by the rules of the fire prevention and building

safety commission in effect at the time that the child care ministry is first registered.

(b) The state fire marshal shall inspect a child care ministry registered under section 2 of this chapter to ensure that the child care ministry complies with the requirements of subsection (c).

(c) Except as provided in the following, a registered child care ministry shall comply with all rules of the fire prevention and building safety commission applicable to the primary use of the building:

(1) A registered child care ministry with an occupant load of at least fifty (50) shall do either of the following:

(A) Install and maintain a fire alarm system in compliance with the rules of the fire prevention and building safety commission.

(B) Provide a notice on a form prescribed by the division of fire and building safety to the parents of each child who attends the ministry stating that the ministry does not have the same level of fire safety protection as a licensed child care center.

(2) Each registered child care ministry with an occupant load of less than fifty (50) shall do either of the following:

(A) Install and maintain in good operating condition at least one (1) battery operated smoke detector in each room and corridor used by the ministry.

(B) Provide a notice on a form prescribed by the division of fire and building safety to the parents of each child who attends the ministry stating that the ministry does not have the same level of fire safety protection as a licensed child care center.

(3) Each registered child care ministry shall comply with the rules of the fire prevention and building safety commission concerning fire drills.

For purposes of this subsection, occupant load is determined by dividing the total square footage of the area used by the child care ministry by thirty-five (35) and rounding any result that is not a whole number up to the next whole number.

(d) The state fire marshal shall make an inspection of a child care ministry registered under section 2 of this chapter at least annually.

(e) During an inspection, the state fire marshal shall inspect the structure in which the child care ministry is conducted for fire safety and life safety with respect to the structure's primary use.

As added by P.L.1-1993, SEC.141. Amended by P.L.159-1995, SEC.2; P.L.1-2006, SEC.194.

IC 12-17.2-6-6

Inspection notices for unlicensed ministries

Sec. 6. Upon the completion of the inspections required under this chapter, a notice signed by the inspectors from the division and the division of fire and building safety shall be issued to the operator of each child care ministry found to be in compliance. The notice shall

be placed in a conspicuous place in the child care ministry, and must be in substantially the following form:

"THIS UNLICENSED REGISTERED CHILD CARE MINISTRY has been inspected and complies with state rules concerning health and sanitation in child care ministries.

DATE _____

SIGNATURE _____

DIVISION OF FAMILY RESOURCES

THIS UNLICENSED REGISTERED CHILD CARE MINISTRY has been inspected and complies with state law concerning fire safety and life safety.

DATE _____

SIGNATURE _____

DIVISION OF FIRE AND BUILDING SAFETY".

As added by P.L.1-1993, SEC.141. Amended by P.L.159-1995, SEC.3; P.L.1-2006, SEC.195; P.L.145-2006, SEC.104.

IC 12-17.2-6-7

Notice to parents and guardians by unlicensed ministries

Sec. 7. The operator of a child care ministry registered under section 2 of this chapter shall provide a notice to the parent or guardian of a child enrolled in the child care ministry. The notice must be signed by the parent or guardian when the child is enrolled in the child care ministry and must be kept on file at the child care ministry until two (2) years after the last day the child attends the child care ministry. This notice must be maintained by the child care ministry and made available to the division upon request. The notice must be in the following form:

"I understand that this child care ministry is not licensed under the laws of Indiana. However, I understand that this child care ministry must comply with the state rules concerning sanitation and fire and life safety for the primary use of the structure in which it is conducted. I understand that it is my responsibility to ensure that the nutritional and health needs of my child are met while my child is at the child care ministry.

SIGNATURE _____".

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-8

Liability for injuries to children

Sec. 8. A child care ministry is not absolved from liability for injury to a child while the child is at the child care ministry if the cause of the injury is negligence or intentional wrongdoing on the part of the child care ministry or an employee of the child care ministry.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-9

Loss of exemption for violation of chapter

Sec. 9. A child care ministry is not exempt under section 1 of this

chapter if the operator or an employee of the child care ministry violates this chapter.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-10
Advertising requirements for exempt ministries

Sec. 10. A child care ministry that is exempt from licensing under this chapter must clearly state in all of its paid promotional advertising that the child care ministry is providing child care as an extension of the ministry's church or religious ministry. A child care ministry that is exempt from licensing under this chapter must be referred to in all of its paid promotional advertising as a child care ministry.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-11
Immunization of children

Sec. 11. (a) The parent or guardian of a child shall, when the child is enrolled in a child care ministry, provide the child care ministry with proof that the child has received the required immunizations against the following:

(1) Diphtheria.
(2) Whooping cough.
(3) Tetanus.
(4) Measles.
(5) Rubella.
(6) Poliomyelitis.
(7) Mumps.

(b) A child enrolled in a child care ministry may not be required to undergo an immunization required under this section if the parents object for religious reasons. The objection must be:

(1) made in writing;
(2) signed by the child's parent or guardian; and
(3) delivered to the child care ministry.

(c) If a physician certifies that a particular immunization required by this section is or may be detrimental to the child's health, the requirements of this section for that particular immunization are inapplicable to that child until the immunization is found to be no longer detrimental to the child's health.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-12
Registration fees of division

Sec. 12. (a) The division shall charge a child care ministry a fifty dollar ($50) fee for processing a registration under section 2 of this chapter.

(b) The division shall deposit the fees collected under subsection (a) in the division of family resources child care fund established by IC 12-17.2-2-3.
As added by P.L.1-1993, SEC.141. Amended by P.L.145-2006,

SEC.106.

IC 12-17.2-6-13
Registration fees of fire marshal

Sec. 13. (a) The state fire marshal shall charge a child care ministry a fifty dollar ($50) fee for processing a registration under section 2 of this chapter.

(b) The state fire marshal shall deposit the fees collected under subsection (a) in the fire and building services fund established by IC 22-12-6-1.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-14
National criminal history check for employees of child care ministry; reporting requirements; prohibition on employing certain persons

Sec. 14. (a) A child care ministry must do the following:

(1) Subject to subsection (c), require, at no expense to the state, an employee or a volunteer who has direct contact with a child who is receiving child care from the child care ministry to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

(2) Report to the division any:

(A) police investigations;

(B) arrests; and

(C) criminal convictions;

of which the operator or director of the child care ministry is aware regarding an employee or volunteer described in subdivision (1).

(3) Refrain from employing, or allowing to serve as a volunteer, an individual who has direct contact with a child who is receiving child care from the child care ministry and who:

(A) has been convicted of a felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

(B) has been convicted of a misdemeanor related to the health or safety of a child;

(C) has been convicted of a misdemeanor under IC 12-17.2-4-35 for operating a child care center without a license, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;

(D) has been convicted of a misdemeanor under IC 12-17.2-5-35 for operating a child care home without a

license, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(E) is a person against whom an allegation of child abuse or neglect has been substantiated under IC 31-33, or under a substantially similar provision in another jurisdiction.

(b) A child care ministry shall require an individual described in subsection (a)(1) to apply for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.

(c) A child care ministry that is registered under this chapter on July 1, 2013, shall, at no expense to the state, meet the requirements under subsection (a)(1) not later than July 1, 2014.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.22 and P.L.61-1993, SEC.12; P.L.124-2007, SEC.7; P.L.287-2013, SEC.16; P.L.158-2013, SEC.179; P.L.168-2014, SEC.28.

IC 12-17.2-6-15

Unscheduled visits by parents and guardians

Sec. 15. Unscheduled visits by a custodial parent or guardian of a child shall be permitted at any time a child care ministry is in operation.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-7.2

Chapter 7.2. Early Education Grant Pilot Program

IC 12-17.2-7.2-1

"Eligible child"

Sec. 1. As used in this chapter, "eligible child" refers to an individual who:

(1) is at least four (4) years of age and less than five (5) years of age on August 1 of the state fiscal year for which a grant is sought under the pilot program;

(2) is a resident of Indiana or otherwise has legal settlement in Indiana, as determined under IC 20-26-11;

(3) is a member of a household with an annual income that does not exceed one hundred twenty-seven percent (127%) of the federal poverty level;

(4) receives qualified early education services from an eligible provider, as determined by the office;

(5) has a parent or guardian who participates in a parental engagement and involvement component provided by the eligible provider; and

(6) has a parent or guardian who agrees to ensure that the child meets the attendance requirements determined by the office.

As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-2

"Eligible provider"

Sec. 2. As used in this chapter, "eligible provider" refers to a provider that satisfies the following conditions:

(1) The provider is:

(A) a:

(i) public school, including a charter school;

(ii) child care center licensed under IC 12-17.2-4;

(iii) child care home licensed under IC 12-17.2-5; or

(iv) child care ministry registered under IC 12-17.2-6;

that meets the standards of quality recognized by a Level 3 or Level 4 paths to QUALITY program rating; or

(B) a school that is accredited by the state board of education or a national or regional accreditation agency that is recognized by the state board of education.

(2) The provider provides qualified early education services to eligible children.

(3) The provider is located in a county in which the pilot program is implemented.

As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-3

"Office"

Sec. 3. As used in this chapter, "office" means the office of the secretary of family and social services.

As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-4
"Paths to QUALITY program"

Sec. 4. As used in this chapter, "paths to QUALITY program" has the meaning set forth in IC 12-17.2-2-14.2(b).

As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-5
"Pilot program"

Sec. 5. As used in this chapter, "pilot program" refers to the pilot program established under section 7 of this chapter.

As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-6
"Qualified early education services"

Sec. 6. As used in this chapter, "qualified early education services" refers to a program of early education services that:

(1) is provided by an eligible provider to an eligible child;

(2) includes a parental engagement and involvement component provided by the eligible provider;

(3) administers the kindergarten readiness assessment adopted by the state board of education; and

(4) meets the design parameters for inclusion in the longitudinal study described in section 12 of this chapter, as determined by the office.

As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-7
Establishment of pilot program

Sec. 7. (a) The office may establish a pilot program to provide grants for qualified early education services in a manner consistent with how funds are distributed under the Child Care and Development Fund (CCDF) grant program.

(b) The office shall administer the pilot program. The program may include eligible providers in not more than five (5) counties. In determining which counties are designated as pilot counties, the office shall attempt to achieve diversity among the designated counties based on the geographical location of the counties, the population of the counties, and whether the counties are primarily rural or urban. The office shall ensure that the counties selected include a population of eligible children sufficient to conduct the longitudinal study under section 12 of this chapter.

(c) Subject to the requirements of this chapter, the office shall determine:

(1) the eligibility requirements, application process, and selection process for awarding grants under the pilot program;

(2) the administration and reporting requirements for eligible providers participating in the pilot program; and

(3) with the assistance of the early learning advisory committee, an appropriate outcomes based accountability system for eligible providers.

(d) Before implementing the pilot program, the office shall submit the provisions of the pilot program to the state board of education for the state board of education's review and comment.

(e) The office shall, subject to the availability of funding, determine the number of eligible children who will participate in the pilot program.

As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-8

Eligibility; amount of grant; funding from donations and gifts

Sec. 8. (a) The office shall determine:

(1) which applicants shall be awarded a grant; and

(2) subject to subsection (b) and to the availability of funding, the amount of each grant.

(b) At least ten percent (10%) but not more than fifty percent (50%) of the tuition for eligible children under the pilot program during the state fiscal year must be paid from donations, gifts, grants, bequests, and other funds received from a private entity or person, from the United States government, or from other sources (excluding funds from a grant provided under this chapter and excluding other state funding). The office may receive and administer grants on behalf of the pilot program. The grants shall be distributed by the office to fulfill the requirements of this subsection.

(c) The amount of a grant made under the pilot program to an eligible child:

(1) must equal at least two thousand five hundred dollars ($2,500) during the state fiscal year; and

(2) may not exceed six thousand eight hundred dollars ($6,800) during the state fiscal year.

(d) The total amount of grants provided from the funding under section 9(a) of this chapter that are awarded under the pilot program in a state fiscal year may not exceed ten million dollars ($10,000,000).

As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-9

Funding

Sec. 9. (a) The pilot program, including the longitudinal study under section 12 of this chapter, must be funded from one (1) or both of the following:

(1) After review by the budget committee and approval by the budget agency, from Child Care and Development Fund (CCDF) grant funding received from the United States government that is designated by the budget agency as available for funding the pilot program.

(2) After review by the budget committee and approval by the budget agency, from amounts reverted in a state fiscal year from funds appropriated to the divisions, departments, and bureaus administered by the office that are designated by the budget agency as available for funding the pilot program.

This subsection expires June 30, 2015.

(b) The amounts necessary to make the grants and pay the expenses of the longitudinal study under section 12 of this chapter from funds designated under subsection (a) are appropriated from the sources described in subsection (a) for the state fiscal year beginning July 1, 2014, and ending June 30, 2015, for the purposes of the pilot program.

As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-10

Application for federal waivers

Sec. 10. The office shall apply for any available waivers under the federal Child Care and Development Fund (CCDF) grant program and the federal Head Start program.

As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-11

Determination of eligibility for choice scholarships

Sec. 11. The receipt of a grant under the pilot program does not qualify, nor have an effect on the qualification or eligibility, of a child for a choice scholarship under IC 20-51-4.

As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-12

Requirement for longitudinal study

Sec. 12. (a) The office shall carry out a longitudinal study of students who participate in the pilot program to determine the achievement levels of those students in kindergarten and later grades.

(b) The longitudinal study must include a comparison of test and assessment results in grade 3 of:

(1) the eligible children who participated in the pilot program; and

(2) a control group determined by the office that consists of children who did not participate in the pilot program.

(c) The office may, after consulting with the state board of education, enter into a contract with one (1) or more persons to carry out the longitudinal study under this section. The office may expend not more than one million dollars ($1,000,000) from the funds appropriated under section 9 of this chapter to carry out the longitudinal study. The amount expended to carry out the longitudinal study under this section is in addition to the ten million dollar ($10,000,000) limit under section 8(d) of this chapter on the amount of grants under the pilot program in a state fiscal year.

As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-13

Reporting requirements

Sec. 13. The office shall before November 1 of each year report to the governor, the budget committee, the state board of education, the department of education, and, in an electronic format under

IC 5-14-6, the legislative council regarding the pilot program.
As added by P.L.202-2014, SEC.2.

IC 12-17.2-7.2-14
Expiration of chapter

Sec. 14. This chapter expires July 1, 2026.
As added by P.L.202-2014, SEC.2.

IC 12-17.4

ARTICLE 17.4. REPEALED

(Repealed by P.L.145-2006, SEC.376.)

IC 12-17.5

ARTICLE 17.5. REPEALED

(Repealed by P.L.1-1994, SEC.66.)

IC 12-17.6

ARTICLE 17.6. CHILDREN'S HEALTH INSURANCE PROGRAM

IC 12-17.6-1

Chapter 1. Definitions

IC 12-17.6-1-1

Applicability of definitions

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-1-2

"Crowd out"

Sec. 2. "Crowd out" means the extent to which:

(1) families substitute coverage offered under the program for employer sponsored health insurance coverage for children; or

(2) employers:

(A) reduce or eliminate health insurance benefits for children under an employer based health insurance plan; or

(B) increase the employee's share of the cost of benefits for children under an employer based health insurance plan relative to the total cost of the plan;

as a result of the program.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-1-2.6

"Emergency"

Sec. 2.6. "Emergency" means a medical condition that manifests itself by acute symptoms of such severity, including severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent lay person who possesses an average knowledge of health and medicine to:

(1) place an individual's health in serious jeopardy;

(2) result in serious impairment to the individual's bodily functions; or

(3) result in serious dysfunction of a bodily organ or part of the individual.

As added by P.L.95-2000, SEC.2. Amended by P.L.223-2001, SEC.12 and P.L.283-2001, SEC.32.

IC 12-17.6-1-3

"Fund"

Sec. 3. "Fund" refers to the children's health insurance program fund established by IC 12-17.6-7-1.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-1-4

"Office"

Sec. 4. "Office" refers to the office of the children's health

insurance program established by IC 12-17.6-2-1.
As added by P.L.273-1999, SEC.177.

IC 12-17.6-1-5
"Program"

Sec. 5. "Program" refers to the children's health insurance program established by IC 12-17.6-2.
As added by P.L.273-1999, SEC.177.

IC 12-17.6-1-6
"Provider"

Sec. 6. "Provider" has the meaning set forth in IC 12-7-2-149.1(2).
As added by P.L.273-1999, SEC.177. Amended by P.L.241-2003, SEC.20.

IC 12-17.6-2

Chapter 2. Program Administration

IC 12-17.6-2-1

Office of children's health insurance program established

Sec. 1. The office of the children's health insurance program is established within the office of the secretary.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-2

Design and administration of health benefits coverage system

Sec. 2. The office shall design and administer a system to provide health benefits coverage for children eligible for the program.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-3

Use of same factors as Medicaid managed care program for children

Sec. 3. To the greatest extent possible, the office shall use the same:

(1) eligibility determination;
(2) enrollment;
(3) provider networks; and
(4) claims payment systems;

as are used by the Medicaid managed care program for children.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-4

Feasibility studies

Sec. 4. The office shall evaluate the feasibility of the following:

(1) Establishing a program to subsidize employer sponsored coverage under the program.
(2) Expanding health insurance coverage under the program to other populations as provided under section 2105(c)(3) of the federal Social Security Act.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-5

Program review requirements

Sec. 5. Reviews of the program shall:

(1) be conducted in compliance with federal requirements; and
(2) include an analysis of the extent to which crowd out is occurring.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-6

Performance criteria and monitoring

Sec. 6. The office shall do the following:

(1) Establish performance criteria and evaluation measures.
(2) Monitor program performance.

(3) Adopt a formula that:
(A) specifies the premiums, if any, to be paid by the parent or guardian of a child enrolled in the program; and
(B) is based on the child's family income.
As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-7
Evaluation of program
Sec. 7. (a) The office shall contract with an independent organization to evaluate the program.
(b) The office shall report the results of each evaluation to the:
(1) children's health policy board established by IC 4-23-27-2; and
(2) interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.
(c) This section does not modify the requirements of other statutes relating to the confidentiality of medical records.
As added by P.L.273-1999, SEC.177. Amended by P.L.66-2002, SEC.11; P.L.205-2013, SEC.212; P.L.53-2014, SEC.111.

IC 12-17.6-2-8
Contracts with community entities
Sec. 8. The office may, in administering the program, contract with community entities, including private entities, for the following:
(1) Outreach for and enrollment in the managed care program.
(2) Provision of services.
(3) Consumer education and public health education.
As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-9
Creative methods reflective of community level objectives
Sec. 9. (a) The office shall incorporate creative methods, reflective of community level objectives and input, to do the following:
(1) Encourage beneficial and appropriate use of health care services.
(2) Pursue efforts to enhance provider availability.
(b) In determining the best approach for each area, the office shall do the following:
(1) Evaluate distinct market areas.
(2) Weigh the advantages and disadvantages of alternative delivery models, including the following:
(A) Risk based managed care only.
(B) Primary care gatekeeper model only.
(C) A combination of clauses (A) and (B).
As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-10
Program to subsidize employer sponsored coverage
Sec. 10. (a) The office may establish a program to subsidize

employer sponsored coverage for:

(1) eligible individuals; and

(2) the families of eligible individuals;

consistent with federal law.

(b) If the office establishes a program under subsection (a), the employer sponsored benefit package must comply with federal law.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-11

Rules

Sec. 11. (a) The office shall adopt rules under IC 4-22-2 to implement the program.

(b) The office may adopt emergency rules under IC 4-22-2-37.1 to implement the program on an emergency basis.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-12

Annual report

Sec. 12. Not later than April 1, the office shall provide a report describing the program's activities during the preceding calendar year to the:

(1) budget committee;

(2) legislative council;

(3) children's health policy board established by IC 4-23-27-2; and

(4) interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.

A report provided under this section to the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.273-1999, SEC.177. Amended by P.L.66-2002, SEC.12; P.L.28-2004, SEC.110; P.L.205-2013, SEC.213; P.L.53-2014, SEC.112.

IC 12-17.6-3

Chapter 3. Eligibility, Outreach, and Enrollment

IC 12-17.6-3-1

Applicability of chapter

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-3-2

Eligibility requirements

Sec. 2. (a) To be eligible to enroll in the program, a child must meet the following requirements:

(1) The child is less than nineteen (19) years of age.

(2) The child is a member of a family with an annual income of:

(A) more than one hundred fifty percent (150%); and

(B) not more than:

(i) two hundred fifty percent (250%); or

(ii) the maximum percentage approved by the federal Centers for Medicare and Medicaid Services if the approved amount is less than two hundred fifty percent (250%);

of the federal income poverty level.

(3) The child is a resident of Indiana.

(4) The child meets all eligibility requirements under Title XXI of the federal Social Security Act.

(5) The child's family agrees to pay any cost sharing amounts required by the office.

(b) The office may adjust eligibility requirements based on available program resources under rules adopted under IC 4-22-2.

As added by P.L.273-1999, SEC.177. Amended by P.L.218-2007, SEC.41; P.L.117-2008, SEC.3; P.L.229-2011, SEC.146.

IC 12-17.6-3-3

Termination of eligibility; continuous eligibility until three years of age

Sec. 3. (a) Subject to subsections (b) and (c), a child who is eligible for the program shall receive services from the program until the earlier of the following:

(1) The child becomes financially ineligible.

(2) The child becomes nineteen (19) years of age.

(b) Subsection (a) applies only if the child and the child's family comply with enrollment requirements.

(c) After a child who is less than three (3) years of age is determined to be eligible for the program, the child is not required to submit eligibility information more frequently than once in a twelve (12) month period until the child becomes three (3) years of age.

As added by P.L.273-1999, SEC.177. Amended by P.L.107-2002, SEC.25; P.L.218-2007, SEC.42.

IC 12-17.6-3-4

Outreach strategies

Sec. 4. The office shall implement outreach strategies that build on community resources.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-3-5

Enrollment

Sec. 5. A child may apply at an enrollment center as provided in IC 12-15-4-1 to receive health care services from the program if the child meets the eligibility requirements of section 2 of this chapter.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-4

Chapter 4. Benefits, Crowd Out, and Cost Sharing

IC 12-17.6-4-1

Applicability of chapter

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-4-2

Services covered; prohibition on treatment limitations or financial requirements; mental health services

Sec. 2. (a) The benefit package provided under the program shall focus on age appropriate preventive, primary, and acute care services.

(b) The office shall offer health insurance coverage for the following basic services:

(1) Inpatient and outpatient hospital services.

(2) Physicians' services provided by a physician (as defined in 42 U.S.C. 1395x(r)).

(3) Laboratory and x-ray services.

(4) Well-baby and well-child care, including:

(A) age appropriate immunizations; and

(B) periodic screening, diagnosis, and treatment services according to a schedule developed by the office.

The office may offer services in addition to those listed in this subsection if appropriations to the program exist to pay for the additional services.

(c) The office shall offer health insurance coverage for the following additional services if the coverage for the services has an actuarial value equal to or greater than the actuarial value of the services provided by the benchmark program determined by the children's health policy board established by IC 4-23-27-2:

(1) Prescription drugs.

(2) Mental health services.

(3) Vision services.

(4) Hearing services.

(5) Dental services.

(d) Notwithstanding subsections (b) and (c), the office may not impose treatment limitations or financial requirements on the coverage of services for a mental illness if similar treatment limitations or financial requirements are not imposed on coverage for services for other illnesses. Coverage for mental illness under the program must include the following:

(1) Inpatient mental health services and substance abuse services provided in an institution that:

(A) treats mental disease; and

(B) has more than sixteen (16) beds;

unless coverage is prohibited by federal law.

(2) Psychiatric residential treatment services.

(3) Community mental health rehabilitation services.

(4) Outpatient mental health services and substance abuse

services, with no greater limitations on the number of units per rolling year than are required under the Medicaid program.

However, the office may require prior authorization for the services specified in subdivisions (1) through (4).

As added by P.L.273-1999, SEC.177. Amended by P.L.103-2009, SEC.1.

IC 12-17.6-4-2.5

Prescription drug requirements

Sec. 2.5. Prescription drugs provided under the program are subject to the requirements of IC 12-15-35.5.

As added by P.L.6-2002, SEC.5.

IC 12-17.6-4-3

Limits on premium and cost sharing amounts

Sec. 3. Premium and cost sharing amounts established by the office are limited by the following:

(1) Deductibles, coinsurance, or other cost sharing is not permitted with respect to benefits for:

(A) well-baby and well-child care, including age appropriate immunizations; and

(B) services provided for treatment of an emergency in an emergency department of a hospital licensed under IC 16-21.

(2) Premiums and other cost sharing may be imposed based on family income. However, the total annual aggregate cost sharing with respect to all children in a family under this article may not exceed five percent (5%) of the family's income for the year.

As added by P.L.273-1999, SEC.177. Amended by P.L.95-2000, SEC.3.

IC 12-17.6-4-4

Powers of office; cost sharing and crowd out

Sec. 4. The office may do the following:

(1) Determine cost sharing amounts.

(2) Determine waiting periods that may not exceed three (3) months and exceptions to the requirement of waiting periods for potential enrollees in the program.

(3) Adopt additional methods for complying with federal requirements relating to crowd out.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-4-5

Prohibited referrals; mechanisms to minimize incentive for employer to eliminate or reduce coverage

Sec. 5. (a) It is a violation of IC 27-4-1-4 if an insurer, or an insurance producer or insurance broker compensated by the insurer, knowingly or intentionally refers an insured or the dependent of an insured to the program for health insurance coverage when the insured already receives health insurance coverage through an employer's health care plan that is underwritten by the insurer.

(b) The office shall coordinate with the children's health policy board under IC 4-23-27 to evaluate the need for mechanisms that minimize the incentive for an employer to eliminate or reduce health care coverage for an employee's dependents.
As added by P.L.273-1999, SEC.177. Amended by P.L.178-2003, SEC.3.

IC 12-17.6-4-6
Community health centers
Sec. 6. Community health centers shall be used to provide health care services.
As added by P.L.273-1999, SEC.177.

IC 12-17.6-4-7
Selection of primary dental provider encouraged
Sec. 7. The office shall encourage the parent of a child who is enrolled in the program to select a primary dental provider for the child before the child is eighteen (18) months of age.
As added by P.L.169-2001, SEC.3.

IC 12-17.6-4-8
Use of generic drugs and preferred drug list required
Sec. 8. (a) The office shall require the use of generic drugs in the program.
(b) The office shall use the preferred drug list implemented under IC 12-15-35-28.7.
As added by P.L.291-2001, SEC.158. Amended by P.L.107-2002, SEC.26.

IC 12-17.6-4-10
Repealed
(Repealed by P.L.229-2011, SEC.272.)

IC 12-17.6-5

Chapter 5. Provider Contracts

IC 12-17.6-5-1

Applicability of chapter

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-5-2

Required information

Sec. 2. A provider agreement must include information that the office finds necessary to facilitate carrying out this article.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-5-3

Compliance with enrollment requirements

Sec. 3. A provider who participates in the program, including a provider who is a member of a managed care organization, must comply with the enrollment requirements that are established under IC 12-15.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-5-4

Direct access of enrollee to provider

Sec. 4. (a) A provider that participates in the Medicaid program is considered a provider for both the Medicaid program and the program under this article.

(b) If an enrollee in the Medicaid managed care program for children has direct access to a provider who has entered into a provider agreement under IC 12-15-11, an enrollee in the program has direct access to the same provider.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6

Chapter 6. Provider Sanctions, Theft, Kickbacks, and Bribes

IC 12-17.6-6-1

Applicability of chapter

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-2

Provider sanctions

Sec. 2. If after investigation the office finds that a provider has violated this article or rule adopted under this article, the office may impose at least one (1) of the following sanctions:

(1) Deny payment to the provider for program services provided during a specified time.

(2) Reject a prospective provider's application for participation in the program.

(3) Terminate a provider agreement allowing a provider's participation in the program.

(4) Assess a civil penalty against the provider in an amount not to exceed three (3) times the amount paid to the provider that exceeds the amount that was legally due.

(5) Assess an interest charge, at a rate not to exceed the rate established by IC 24-4.6-1-101(2) for judgments on money, on the amount paid to the provider that exceeds the amount that was legally due. The interest charge accrues from the date of the overpayment to the provider.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-3

Ineligibility to participate in program

Sec. 3. In addition to any sanction imposed on a provider under section 2 of this chapter, a provider convicted of an offense under IC 35-43-5-7.2 is ineligible to participate in the program for ten (10) years after the conviction.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-4

Administrative review

Sec. 4. A provider may appeal a sanction imposed under section 2 of this chapter under rules concerning Medicaid provider appeals that are adopted by the secretary under IC 4-22-2.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-5

Judicial review

Sec. 5. After exhausting all administrative remedies, a provider may obtain judicial review of a sanction under IC 4-21.5-5.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-6
Provider to notify recipients of services for which office will not pay

Sec. 6. A final directive made by the office that:

(1) denies payment to a provider for medical services provided during a specified period; or

(2) terminates a provider agreement permitting a provider's participation in the program;

must direct the provider to inform each eligible recipient of services, before services are provided, that the office will not pay for those services if provided.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-7
Duration of final directive

Sec. 7. Subject to section 8 of this chapter, a final directive:

(1) denying payment to a provider;

(2) rejecting a prospective provider's application for participation in the program; or

(3) terminating a provider agreement allowing a provider's participation in the program;

must be for a sufficient time, in the opinion of the office, to allow for the correction of all deficiencies or to prevent further abuses.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-8
Conditions for reinstatement of provider under sanction

Sec. 8. Except as provided in section 10 of this chapter, a provider sanctioned under section 2 of this chapter may not be declared reinstated as a provider under this article until the office has received the following:

(1) Full repayment of the amount paid to the provider in excess of the proper and legal amount due, including any interest charge assessed by the office.

(2) Full payment of a civil penalty assessed under section 2(4) of this chapter.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-9
Provider filing agreements under sanction

Sec. 9. Except as provided in section 10 of this chapter, a provider sanctioned under section 2 of this chapter may file an agreement as provided in IC 12-17.6-5.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-10
Ineligibility of provider under sanction to submit claims

Sec. 10. A provider who has been:

(1) convicted of a crime relating to the provision of services under this chapter; or

(2) subjected to a sanction under section 2 of this chapter on

three (3) separate occasions by directive of the office;

is ineligible to submit claims for the program.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-11

Prima facie evidence of intent to deprive state of value

Sec. 11. Evidence that a person or provider received money or other benefits as a result of a violation of:

(1) a provision of this article; or

(2) a rule established by the office under this article;

constitutes prima facie evidence, for purposes of IC 35-43-4-2, that the person or provider intended to deprive the state of a part of the value of the money or benefits.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-12

Violations

Sec. 12. A person who furnishes items or services to an individual for which payment is or may be made under this chapter and who knowingly or intentionally solicits, offers, or receives a:

(1) kickback or bribe in connection with the furnishing of the items or services or the making or receipt of the payment; or

(2) rebate of a fee or charge for referring the individual to another person for the furnishing of items or services;

commits a Class A misdemeanor.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-7
Chapter 7. Funding

IC 12-17.6-7-1
Children's health insurance program fund established

Sec. 1. The children's health insurance program fund is established for the purpose of paying expenses relating to:

(1) the program;

(2) services offered through the program for children enrolled in the program; and

(3) services and administration eligible for reimbursement under Title XXI of the federal Social Security Act for children enrolled in Medicaid under IC 12-15-2-14.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-7-2
Administration of fund

Sec. 2. The office shall administer the fund.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-7-3
Contents of fund

Sec. 3. The fund consists of the following:

(1) Amounts appropriated by the general assembly.

(2) Amounts appropriated by the federal government.

(3) Fees, charges, gifts, grants, donations, money received from any other source, and other income funds as may become available.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-7-4
Investments

Sec. 4. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-7-5
Reversion of money

Sec. 5. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-8

Chapter 8. Appeals and Hearings

IC 12-17.6-8-1

Applicability of chapter

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-8-2

Right to appeal

Sec. 2. An applicant for or a recipient of services under the program may appeal to the office if at least one (1) of the following occurs:

(1) An application or a request is not acted upon by the office within a reasonable time after the application or request is filed.

(2) The application is denied.

(3) The applicant or recipient is dissatisfied with the action of the office.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-8-3

Applicability of IC 4-21.5

Sec. 3. The secretary shall conduct hearings and appeals concerning the program under IC 4-21.5.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-8-4

Setting matter for hearing

Sec. 4. The office shall, upon receipt of notice of appeal under section 2 of this chapter, set the matter for hearing and give the applicant or recipient an opportunity for a fair hearing in the county in which the applicant or recipient resides.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-8-5

Hearing procedure

Sec. 5. (a) At a hearing held under section 4 of this chapter, the applicant or recipient and the office may introduce additional evidence.

(b) A hearing held under section 4 of this chapter shall be conducted under rules adopted by the secretary for applicants and recipients of Medicaid that are not inconsistent with IC 4-21.5 and the program.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-8-6

Powers and duties of office

Sec. 6. The office:

(1) may make necessary additional investigations; and

(2) shall make decisions concerning the:

(A) granting of program services; and

(B) amount of program services to be granted;

to an applicant or a recipient that the office believes are justified and in conformity with the program.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9

Chapter 9. Confidentiality and Release of Information

IC 12-17.6-9-1

Applicability of chapter

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-2

Confidentiality of information in general

Sec. 2. The following concerning a program applicant or recipient under the program are confidential, except as otherwise provided in this chapter:

(1) An application.
(2) An investigation report.
(3) An information.
(4) A record.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-3

Disclosure of information authorized

Sec. 3. The use and the disclosure of the information described in this chapter to persons authorized by law in connection with the official duties relating to:

(1) financial audits;
(2) legislative investigations; or
(3) other purposes directly connected with the administration of the program;

is authorized.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-4

Disclosure of information of general nature

Sec. 4. (a) The release and use of information of a general nature shall be provided as needed for adequate interpretation or development of the program.

(b) The information described in subsection (a) includes the following:

(1) Total program expenditures.
(2) The number of recipients.
(3) Statistical and social data used in connection with studies.
(4) Reports or surveys on health and welfare problems.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-5

Information available to providers

Sec. 5. The office shall make available the following to providers for immediate access to information indicating whether an individual is eligible for the program:

(1) A twenty-four (24) hour telephone system.

(2) A computerized data retrieval system.
As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-6
Limits on information available to providers

Sec. 6. Information released under section 5 of this chapter is limited to the following:

(1) Disclosure of whether an individual is eligible for the program.

(2) The date the individual became eligible for the program and the individual's program number.

(3) Restrictions, if any, on the scope of services to be reimbursed under the program for the individual.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-7
Confidentiality of information obtained by providers

Sec. 7. Information obtained by a provider under this chapter concerning an individual's eligibility for the program is confidential and may not be disclosed to any person.
As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-8
Limitation of provisions to ensure eligibility for federal financial participation

Sec. 8. If it is established that a provision of this chapter causes the program to be ineligible for federal financial participation, the provision is limited or restricted to the extent that is essential to make the program eligible for federal financial participation.
As added by P.L.273-1999, SEC.177.

IC 12-17.7

ARTICLE 17.7. REPEALED

(Repealed by P.L.255-2003, SEC.55.)

IC 12-17.8

ARTICLE 17.8. REPEALED

(Repealed by P.L.255-2003, SEC.55.)

IC 12-18

ARTICLE 18. FAMILY PROTECTION SERVICES

IC 12-18-1

Repealed

(Repealed by P.L.91-1996, SEC.8.)

IC 12-18-2
Repealed

(Repealed by P.L.91-1996, SEC.8.)

IC 12-18-3
Repealed

(Repealed by P.L.130-2009, SEC.28.)

IC 12-18-4
Repealed

(Repealed by P.L.130-2009, SEC.28.)

IC 12-18-5
Repealed

(Repealed by P.L.130-2009, SEC.28.)

IC 12-18-6
Repealed

(Repealed by P.L.47-1993, SEC.14.)

IC 12-18-7
Repealed

(Repealed by P.L.47-1993, SEC.14.)

IC 12-18-8

Chapter 8. Domestic Violence Fatality Review Team

IC 12-18-8-1

"Coalition"

Sec. 1. As used in this chapter, "coalition" refers to the Indiana coalition against domestic violence.

As added by P.L.181-2003, SEC.6.

IC 12-18-8-2

"Domestic violence"

Sec. 2. As used in this chapter, "domestic violence" has the meaning set forth in IC 34-6-2-34.5.

As added by P.L.181-2003, SEC.6.

IC 12-18-8-3

"Family or household member"

Sec. 3. (a) As used in this chapter, an individual is a "family or household member" of another person if the individual:

(1) is a current or former spouse of the other person;

(2) is dating or has dated the other person;

(3) is or was engaged in a sexual relationship with the other person;

(4) is related by blood or adoption to the other person;

(5) is or was related by marriage to the other person;

(6) cohabits or formerly cohabited with the other person; or

(7) has or previously had an established legal relationship:

(A) as a guardian of the other person;

(B) as a ward of the other person;

(C) as a custodian of the other person;

(D) as a foster parent of the other person; or

(E) in a capacity with respect to the other person similar to those listed in clauses (A) through (D).

(b) As used in this chapter, an individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) applies if the individual is a minor child of one (1) of the persons.

As added by P.L.181-2003, SEC.6.

IC 12-18-8-4

"Final judgment"

Sec. 4. As used in this chapter, "final judgment" means:

(1) an acquittal of a criminal offense; or

(2) a conviction for a criminal offense:

(A) in which the defendant fails to file a timely:

(i) notice of appeal under the Indiana rules of appellate procedure; and

(ii) motion under Indiana Trial Rule 60(B);

(B) in which transfer is denied to the Indiana supreme court; or

(C) that is upheld:
(i) on appeal;
(ii) following a hearing under Indiana Trial Rule 60(B); or
(iii) on appeal and following a hearing under Indiana Trial Rule 60(B).

As added by P.L.181-2003, SEC.6. Amended by P.L.97-2004, SEC.53.

IC 12-18-8-5
"Local domestic violence fatality review team"

Sec. 5. As used in this chapter, "local domestic violence fatality review team" means the county or regional domestic violence fatality review team established under this chapter.

As added by P.L.181-2003, SEC.6.

IC 12-18-8-6
County domestic violence fatality review teams

Sec. 6. (a) A county may establish a county domestic violence fatality review team for the purpose of reviewing a death resulting from or in connection with domestic violence. The team shall review only those deaths in which:

(1) the person who commits the act of domestic violence resulting in death:
(A) is charged with a criminal offense that results in final judgment; or
(B) is deceased; or
(2) the manner of death is suicide, and the deceased individual was a victim of an act of domestic violence.

(b) The legislative body (as defined in IC 36-1-2-9) of a county must determine by majority vote if the county will establish a local domestic violence fatality review team.

(c) If a county elects not to establish a county domestic violence fatality review team, the county may join with one (1) or more other counties that have not established a county domestic violence fatality review team and form a regional domestic violence fatality review team.

(d) To establish a regional domestic violence fatality review team as described in subsection (c), the legislative body of each county comprising the region must cast a majority of votes in favor of establishing a regional domestic violence fatality review team.

As added by P.L.181-2003, SEC.6. Amended by P.L.44-2004, SEC.1; P.L.162-2011, SEC.1.

IC 12-18-8-7
Duties

Sec. 7. (a) A local domestic violence fatality review team shall do the following:

(1) Assist a local agency in identifying and reviewing a homicide or suicide that results from domestic violence.
(2) Develop recommendations for coordinated community

prevention and intervention strategies to prevent future homicides or suicides resulting from domestic violence.

(3) Collect data described in section 14 of this chapter related to a death resulting from domestic violence.

(b) A local domestic violence fatality review team may develop a protocol to assist a person who performs an autopsy in:

(1) identifying a victim of domestic violence; and

(2) preparing a written report identifying a person as the victim of domestic violence and describing the cause of death.

(c) A local domestic violence fatality review team shall be operated in conjunction with a:

(1) local domestic violence shelter;

(2) domestic violence program; or

(3) domestic violence coordinated community response team.

As added by P.L.181-2003, SEC.6.

IC 12-18-8-8

Information that a domestic violence fatality review team may include in a review; immunity

Sec. 8. (a) To complete its review of a death that it believes to have resulted from domestic violence, the fatality review performed by a local domestic violence fatality review team may include information from reports generated or received by:

(1) agencies;

(2) organizations; or

(3) individuals;

responsible for the investigation, prosecution, or treatment concerning a death being investigated by the local domestic violence fatality review team.

(b) An entity or individual that in good faith provides information described in subsection (a) is immune from civil or criminal liability that might otherwise be imposed as the result of providing this information.

As added by P.L.181-2003, SEC.6. Amended by P.L.97-2004, SEC.54.

IC 12-18-8-9

Disclosure of recommendations of a domestic violence fatality review team

Sec. 9. The recommendations of a local domestic violence fatality review team may be disclosed at the discretion of a majority of the members at the conclusion of a review.

As added by P.L.181-2003, SEC.6. Amended by P.L.97-2004, SEC.55.

IC 12-18-8-10

Members of local domestic violence fatality review team

Sec. 10. (a) A local domestic violence fatality review team consists of the following members:

(1) A survivor of domestic violence.

(2) A domestic violence direct service provider.
(3) A representative of law enforcement from the area served by the local domestic violence fatality review team.
(4) A prosecuting attorney or the prosecuting attorney's designee from the area served by the local domestic violence fatality review team.
(5) An expert in the field of forensic pathology, a coroner, or a deputy coroner.
(6) A medical practitioner with expertise in domestic violence.
(7) A judge who hears civil or criminal cases.
(8) An employee of the department of child services.

(b) If a local domestic violence fatality review team is established in one (1) county, the legislative body that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

(1) adopt an ordinance for the appointment and reappointment of members of the local domestic violence fatality review team; and
(2) appoint members to the local domestic violence fatality review team under the ordinance adopted.

(c) If a local domestic violence fatality review team is established in a region, the county legislative bodies that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

(1) each adopt substantially similar ordinances for the appointment and reappointment of members of the local domestic violence fatality review team; and
(2) appoint members to the local domestic violence fatality review team under the ordinances adopted.

(d) A local domestic violence fatality review team may not have more than fifteen (15) members.

As added by P.L.181-2003, SEC.6. Amended by P.L.97-2004, SEC.56; P.L.44-2004, SEC.2; P.L.234-2005, SEC.41.

IC 12-18-8-11

Additional members of a local domestic violence fatality review team

Sec. 11. In accordance with the ordinance adopted under section 10 of this chapter, a local domestic violence fatality review team may have the following additional members:

(1) A clergy member.
(2) A representative of county government.
(3) A representative from a county health department.
(4) A representative from a local bar association.
(5) A defense attorney.
(6) An educator.
(7) A probation officer.
(8) A representative from the business community.
(9) An animal control officer.
(10) An attorney who represents victims of domestic violence.

(11) A provider of a batterers intervention program.
As added by P.L.181-2003, SEC.6.

IC 12-18-8-12
Chairperson

Sec. 12. (a) Any member of a local domestic violence fatality review team may serve as chairperson. The chairperson shall be elected annually by the members of the local domestic violence fatality review team at the first meeting of the local domestic violence fatality review team.

(b) The local domestic violence fatality review team shall meet at the call of the chairperson.

(c) The local domestic violence fatality review team chairperson shall determine the agenda for each meeting.
As added by P.L.181-2003, SEC.6.

IC 12-18-8-13
Meetings

Sec. 13. (a) Except as provided in subsection (b), meetings of a local domestic violence fatality review team are open to the public.

(b) Meetings of a local domestic violence fatality review team that involve:

(1) confidential records; or

(2) identifying information regarding a death;

shall be held as an executive session with the public excluded, except those persons necessary to carry out the fatality review.

(c) If an executive session is held under subsection (b), each individual who:

(1) attends a meeting of a local domestic violence fatality review team; and

(2) is not a member of the local domestic violence fatality review team;

shall sign a confidentiality agreement.

(d) A local domestic violence fatality review team shall keep all confidentiality statements signed under this section.
As added by P.L.181-2003, SEC.6. Amended by P.L.97-2004, SEC.57.

IC 12-18-8-14
Data collection

Sec. 14. The coalition shall collect and document information surrounding the deaths reviewed by a local domestic violence fatality review team. The coalition shall develop a data collection form that includes the following:

(1) Identifying and nonidentifying information.

(2) Information regarding the circumstances surrounding a death.

(3) Factors contributing to a death.

(4) Findings and recommendations.
As added by P.L.181-2003, SEC.6.

IC 12-18-8-15
Annual report

Sec. 15. The coalition's annual report shall be made available to the public. The coalition may not charge more than the amount set by IC 5-14-3-8 to offset the cost of copying the annual report.
As added by P.L.181-2003, SEC.6.

IC 12-18-8-16
Inadmissibility of testimony or evidence based on the investigation of a local domestic violence fatality review team

Sec. 16. In a criminal or civil proceeding or a disciplinary action by a state agency or municipal corporation (as defined in IC 36-1-2-10):

(1) the testimony of a member of a local domestic fatality review team; or

(2) a report, record, or recommendation of a local domestic fatality review team;

is not admissible as evidence if the testimony or the report, record, or recommendation concerns the investigation of a death that the local domestic violence fatality review team has reviewed.
As added by P.L.44-2004, SEC.3.

IC 12-19

ARTICLE 19. COUNTY WELFARE ADMINISTRATION AND FINANCING

IC 12-19-1

Chapter 1. County Offices of Family Resources

IC 12-19-1-1

Establishment of county offices

Sec. 1. The division shall establish county offices of family resources in each county.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.157; P.L.5-1993, SEC.170; P.L.146-2008, SEC.392; P.L.44-2009, SEC.13.

IC 12-19-1-2

County director; appointment

Sec. 2. (a) The director of the division shall appoint a county director for each county office.

(b) A county director must be a citizen of the United States.

As added by P.L.2-1992, SEC.13. Amended by P.L.234-2005, SEC.42; P.L.138-2007, SEC.3; P.L.146-2008, SEC.393; P.L.44-2009, SEC.14.

IC 12-19-1-3

County director; executive and administrative officer

Sec. 3. The county director is the executive and administrative officer of the county office.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.158; P.L.5-1993, SEC.171; P.L.146-2008, SEC.394; P.L.44-2009, SEC.15.

IC 12-19-1-4

County director; compensation

Sec. 4. (a) A county director is entitled to receive as compensation for the county director's services an amount determined by the division that is within:

(1) the lawfully established appropriations; and

(2) the salary ranges of the pay plan adopted by the state personnel department and approved by the budget committee.

(b) Compensation paid to a county director shall be paid in the same manner that compensation is paid to other state employees.

As added by P.L.2-1992, SEC.13. Amended by P.L.146-2008, SEC.395; P.L.44-2009, SEC.16.

IC 12-19-1-5

County director; travel expenses

Sec. 5. (a) In addition to the compensation paid under this article, a county director may receive for each mile necessarily traveled in the discharge of the county director's duties the same amount per mile

that other state employees receive.

(b) A county director is also entitled to a per diem for lodging and meal expenses if the county director's official duties require the county director to travel outside of the county where the county director's permanent office is located. The per diem for a county director's lodging and meals shall be paid at the rate set by law for other state employees.

As added by P.L.2-1992, SEC.13. Amended by P.L.146-2008, SEC.396; P.L.44-2009, SEC.17.

IC 12-19-1-6

County director; bond; oath

Sec. 6. Before beginning the discharge of the county director's official duties, a county director must do the following:

(1) Execute a bond payable to the state. The following apply to a bond executed under this section:

(A) The bond must be conditioned on the faithful discharge of the county director's official duties.

(B) The bond must be executed in an amount determined under rules adopted by the division.

(2) Take and subscribe an oath for the faithful discharge of the county director's official duties. The oath must be endorsed upon the county director's official bond.

(3) File the bond and oath executed under this section in the office of the clerk of the circuit court.

As added by P.L.2-1992, SEC.13.

IC 12-19-1-7

County director; appointment of assistants; compensation

Sec. 7. (a) The county director shall appoint the number of assistants necessary to administer the welfare activities within the county that are administered by the division under IC 12-13 through IC 12-19 or by an administrative rule, with the approval of the director of the division.

(b) The division, for personnel performing activities described in subsection (a), shall determine the compensation of the assistants within the salary ranges of the pay plan adopted by the state personnel department and approved by the budget agency, with the advice of the budget committee, and within lawfully established appropriations.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.159; P.L.5-1993, SEC.172; P.L.234-2005, SEC.43; P.L.145-2006, SEC.107; P.L.146-2008, SEC.397; P.L.44-2009, SEC.18; P.L.100-2012, SEC.32.

IC 12-19-1-8

Administration; costs of personal services; payment by division

Sec. 8. The costs of personal services in the administration of a county office's duties described in section 7(a) of this chapter shall be paid by the division.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.160; P.L.5-1993, SEC.173; P.L.234-2005, SEC.44; P.L.146-2008, SEC.398; P.L.44-2009, SEC.19.

IC 12-19-1-9
Facilities, supplies, and equipment

Sec. 9. (a) The division shall provide the necessary facilities to house the county office.

(b) The division shall pay for the costs of the facilities, supplies, and equipment needed by each county office.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.161; P.L.5-1993, SEC.174; P.L.273-1999, SEC.90; P.L.146-2008, SEC.399; P.L.44-2009, SEC.20.

IC 12-19-1-10
Administration

Sec. 10. Subject to the rules adopted by the director of the division, a county office shall administer the following:

(1) Assistance to dependent children in the homes of the dependent children.

(2) Assistance and services to elderly persons.

(3) Assistance to persons with disabilities.

(4) Care and treatment of the following persons, other than persons for whom the department of child services is providing services under IC 31 for the following:

(A) Dependent children.

(B) Children with disabilities.

(5) Any other welfare activities that are delegated to the county office by the division, including services concerning assistance to the blind.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.162; P.L.5-1993, SEC.175; P.L.23-1993, SEC.54; P.L.61-1993, SEC.60; P.L.1-1994, SEC.67; P.L.74-1994, SEC.4; P.L.234-2005, SEC.45; P.L.146-2008, SEC.400; P.L.44-2009, SEC.21.

IC 12-19-1-11
Repealed

(Repealed by P.L.146-2008, SEC.804.)

IC 12-19-1-12
Repealed

(Repealed by P.L.146-2008, SEC.804.)

IC 12-19-1-13
Power to sue and be sued; rights, powers, and duties necessary to administer act; filing of suits; notices and summonses

Sec. 13. (a) A county office may sue and be sued under the name of "The Office of Family Resources of _____ County".

(b) The county office has all other rights and powers and shall perform all other duties necessary to administer this chapter.

(c) A suit brought against a county office may be filed in any circuit or superior court with jurisdiction in the area served by the county office.

(d) A notice or summons in a suit brought against the county office must be served on the county director. It is not required to name the individual employees of the county office as either plaintiff or defendant.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.165; P.L.5-1993, SEC.178; P.L.146-2008, SEC.401; P.L.44-2009, SEC.22.

IC 12-19-1-14
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 12-19-1-15
Gifts, devises, and bequests of personal property; investment; special fund; expenditures

Sec. 15. (a) The division may receive and administer a gift, devise, or bequest of personal property, including the income from real property, that is to or for the benefit of an individual receiving payments or services through a county office.

(b) The division shall establish a special fund or an account in a trust fund for the money received under this section. The expenses of administering the fund or account shall be paid from money in the fund or account. The money may not be commingled with money received from taxation.

(c) The treasurer of state shall invest the money in the fund or account not currently needed to meet the obligations of the fund or account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund or account.

(d) Money in the fund or account at the end of a state fiscal year does not revert to the state general fund.

(e) Subject to the approval of the judge or the court of the county having probate jurisdiction, money in the fund or account may be expended by the division in any manner consistent with the purposes of the fund or account created under this section and with the intention of the donor.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.167; P.L.5-1993, SEC.180; P.L.146-2008, SEC.402; P.L.44-2009, SEC.23.

IC 12-19-1-16
Receipt and administration of money available to or for the benefit of persons receiving payments or services

Sec. 16. (a) This section does not apply to money appropriated by the general assembly, including any federal grant.

(b) The family resources trust clearance fund is established to administer money available to or for the benefit of an individual

receiving payments or services through a county office. The fund shall be administered by the division. Separate accounts in the fund shall be established, as appropriate, to carry out the purposes of the donors of the money deposited in the fund.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) Money in the fund may not be commingled with any other fund or with money received from taxation. The money may be expended by the county office in any manner consistent with the following:

(1) The purpose of the fund or with the intention of the donor of the money.

(2) Indiana law.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.168; P.L.5-1993, SEC.181; P.L.273-1999, SEC.92; P.L.146-2008, SEC.403; P.L.44-2009, SEC.24.

IC 12-19-1-17
Repealed

(Repealed by P.L.273-1999, SEC.124.)

IC 12-19-1-18
Designation of responsible person to act for and receive assistance on behalf of applicant or recipient; fee for services

Sec. 18. (a) After petition to and with the approval of the judge of a circuit court of the county where an applicant for or recipient of public assistance resides (or, if a superior court has probate jurisdiction in the county, the superior court that has probate jurisdiction where the recipient of public assistance resides), a county office may take the actions described in subsection (b) if:

(1) an applicant for public assistance is physically or mentally incapable of completing an application for assistance; or

(2) a recipient of public assistance:

(A) is incapable of managing the recipient's affairs; or

(B) refuses to:

(i) take care of the recipient's money properly; or

(ii) comply with the director of the division's rules and policies.

(b) If the conditions of subsection (a) are satisfied, the county office may designate a responsible person to do the following:

(1) Act for the applicant or recipient.

(2) Receive on behalf of the recipient the assistance the recipient is eligible to receive under any of the following:

(A) This chapter.

(B) IC 12-10-6.
(C) IC 12-14-1 through IC 12-14-9.5.
(D) IC 12-14-13 through IC 12-14-19.
(E) IC 12-15.
(F) IC 16-35-2.

(c) A fee for services provided under this section may be paid to the responsible person in an amount not to exceed ten dollars ($10) each month. The fee may be allowed:

(1) in the monthly assistance award; or
(2) by vendor payment if the fee would cause the amount of assistance to be increased beyond the maximum amount permitted by statute.

As added by P.L.2-1992, SEC.13. Amended by P.L.2-1993, SEC.111; P.L.4-1993, SEC.170; P.L.5-1993, SEC.183; P.L.273-1999, SEC.93; P.L.145-2006, SEC.108; P.L.146-2008, SEC.404; P.L.44-2009, SEC.25.

IC 12-19-1-19
Persons who may be designated under IC 12-19-1-18; costs of appointment proceedings

Sec. 19. (a) A responsible person approved under section 18 of this chapter preferably must be a relative or friend of good moral character whose interest is limited to the well-being of the applicant or recipient. However, the responsible person may not be any of the following:

(1) An employee of the county office.
(2) The superintendent of a county home.
(3) A person directly or indirectly financially connected with a health facility or an institution giving care to the recipient.
(4) A person directly or indirectly connected with the operation of a health facility or an institution giving care to the recipient.

(b) Costs may not be charged by a person or public official in proceedings concerning the appointment of a responsible person under section 18 of this chapter.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.171; P.L.5-1993, SEC.184; P.L.146-2008, SEC.405; P.L.44-2009, SEC.26.

IC 12-19-1-20
Responsible persons; financial reports; termination of powers; use of assistance money received

Sec. 20. (a) A responsible person appointed under section 18 of this chapter shall make financial reports concerning the services provided by the responsible person at the time and in the manner prescribed by the circuit court. A responsible person shall account to the circuit court at least one (1) time every two (2) years. The circuit court may make rules regulating the administration and accounting of money paid to a responsible person.

(b) The powers of a responsible person, other than the filing of a final account for the approval of the circuit court, terminate on the

appointment of a guardian for the recipient.

(c) Public assistance money received by a responsible person shall be used solely for the benefit of the recipient or the recipient's dependents.

As added by P.L.2-1992, SEC.13.

IC 12-19-1-21

Property tax levies prohibited

Sec. 21. (a) Notwithstanding any other law, after December 31, 1999, a county may not impose any of the following:

(1) A property tax levy for a county welfare fund.

(2) A property tax levy for a county welfare administration fund.

(b) Notwithstanding any other law, after December 31, 2008, a county may not impose any of the following:

(1) A property tax levy for a county medical assistance to wards fund.

(2) A property tax levy for a county family and children's services fund.

(3) A property tax levy for a children's psychiatric residential treatment services fund.

(4) A property tax levy for a children with special health care needs county fund.

As added by P.L.273-1999, SEC.62. Amended by P.L.146-2008, SEC.406.

IC 12-19-1-22

Bonds and loans considered general obligations of counties

Sec. 22. Each official and body responsible for the levying of taxes for the county must ensure that sufficient levies are made to meet the principal and interest on all bonds issued and loans made under this article before January 1, 2009, at the time fixed for the payment of the principal and interest, without regard to any other statute. If an official or a body fails or refuses to make or allow a sufficient levy required by this section, the bonds and loans and the interest on the bonds and loans shall be payable out of the county general fund without appropriation.

As added by P.L.273-1999, SEC.63. Amended by P.L.146-2008, SEC.407.

IC 12-19-1.5
Repealed

(Repealed by P.L.146-2008, SEC.803.)

IC 12-19-2

Chapter 2. General Provisions

IC 12-19-2-1

Bonds required of officers or other persons; premiums; payment

Sec. 1. Unless expressly prohibited by law, the premiums on all bonds that an officer or other person is required to execute under this article shall be paid in the same manner as other expenses of the division are paid out of the appropriation for fixed charges.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.172; P.L.5-1993, SEC.185; P.L.146-2008, SEC.408.

IC 12-19-2-2

Officers and employees; personal liability

Sec. 2. The following are not personally liable, except to the state, for an official act done or omitted in connection with the performance of duties under this article:

(1) The director of the division.

(2) Officers and employees of the division.

(3) Officers and employees of a county office.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.173; P.L.5-1993, SEC.186; P.L.234-2005, SEC.46; P.L.146-2008, SEC.409; P.L.44-2009, SEC.27.

IC 12-19-2-3

Officers and employees; administration of oaths and affirmations

Sec. 3. An officer or employee of:

(1) the division; or

(2) a county office;

may administer oaths and affirmations required to carry out the purposes of this article or of any other statute imposing duties on the county office.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.174; P.L.5-1993, SEC.187; P.L.234-2005, SEC.47; P.L.146-2008, SEC.410; P.L.44-2009, SEC.28.

IC 12-19-2-4

Nepotism; persons ineligible for positions in division

Sec. 4. A person who is related to the director of the division in the following manner is not eligible for a position in the division:

(1) Husband or wife.

(2) Father or mother.

(3) Son or daughter.

(4) Son-in-law or daughter-in-law.

(5) Brother or sister.

(6) Niece or nephew.

(7) Uncle or aunt.

As added by P.L.2-1992, SEC.13.

IC 12-19-2-5

Nepotism; ineligible persons

Sec. 5. A person who is related to a county director in the following manner is not eligible for a position in the county office:

(1) Husband or wife.
(2) Father or mother.
(3) Son or daughter.
(4) Son-in-law or daughter-in-law.
(5) Brother or sister.
(6) Niece or nephew.
(7) Uncle or aunt.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.175; P.L.5-1993, SEC.188; P.L.146-2008, SEC.411; P.L.44-2009, SEC.29.

IC 12-19-2-6

Nepotism; compensation prohibited

Sec. 6. A person prohibited under section 5 of this chapter from employment with a county office may not receive compensation for services performed for the county office from appropriations made by the state or by the county.

As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.176; P.L.5-1993, SEC.189; P.L.146-2008, SEC.412; P.L.44-2009, SEC.30.

IC 12-19-3
Repealed

(Repealed by P.L.273-1999, SEC.66.)

IC 12-19-4
Repealed

(Repealed by P.L.273-1999, SEC.66.)

IC 12-19-5
Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 12-19-6
Repealed

(Repealed by P.L.146-2008, SEC.804.)

IC 12-19-7
Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 12-19-7.5
Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 12-20

ARTICLE 20. TOWNSHIP ASSISTANCE

IC 12-20-1

Chapter 1. General Provisions

IC 12-20-1-1

Purpose of article

Sec. 1. The purpose of this article is to provide necessary and prompt relief to the citizens and residents of Indiana.

As added by P.L.2-1992, SEC.14.

IC 12-20-1-2

Construction of article

Sec. 2. This article shall be liberally construed so that the article's purposes and policies may be accomplished as equitably and expeditiously as possible.

As added by P.L.2-1992, SEC.14.

IC 12-20-1-3

Additional county auditor clerical help

Sec. 3. (a) Each county auditor is entitled to reasonable additional clerical help to carry out the auditor's responsibilities under this article, as determined to be necessary by each county's fiscal body.

(b) The county fiscal body shall make an appropriation for the payment of additional clerical help under this section.

As added by P.L.2-1992, SEC.14.

IC 12-20-1-4

Township assistance profiteering; township assistance fraud

Sec. 4. (a) This section does not apply to an attorney who is admitted to practice law in Indiana.

(b) A person who receives any item of value from an applicant or a recipient in connection with assisting that applicant or recipient in obtaining township assistance commits township assistance profiteering, a Class C misdemeanor.

(c) A person who unfairly profits from the:

(1) sale, lease, or rental of goods or shelter; or

(2) provision of services;

to a township assistance recipient commits township assistance fraud, a Level 6 felony. For purposes of this subsection, a person unfairly profits if the person receives payment from the township trustee for goods or services that the person does not provide or the person charges the township trustee more for the goods or services than the person would charge members of the public.

(d) In addition to any other penalty imposed for a conviction under subsection (c), a person who is convicted of township assistance fraud is ineligible to participate in the township assistance program for thirty (30) years after the date of the conviction.

As added by P.L.51-1996, SEC.14. Amended by P.L.73-2005,

SEC.10; P.L.158-2013, SEC.180.

IC 12-20-1-5
References to "poor relief"; legal effect of name change

Sec. 5. (a) After June 30, 2005, a reference to "poor relief" in a statute, a rule, an interim guideline, a contract, an application for benefits, an eligibility standard, a tax levy, a fund, a bond issue or another form of indebtedness, or any other legal document or order shall be treated as a reference to "township assistance".

(b) The renaming of "poor relief" as "township assistance" does not affect:

(1) any rights or liabilities accrued;
(2) any penalties incurred;
(3) any violations committed;
(4) any proceedings begun;
(5) any contract;
(6) any application for or standard of benefits;
(7) any tax levy;
(8) any fund;
(9) any bond issue or other form of indebtedness; or
(10) any legal document or order.

As added by P.L.20-2010, SEC.7.

IC 12-20-1-6
Payment of claims under prior law

Sec. 6. A valid claim:

(1) for goods or services provided; and
(2) not paid;

under IC 12-2 (before its repeal) shall be paid under the corresponding provision of this article.

As added by P.L.220-2011, SEC.270.

IC 12-20-2
Chapter 2. Legal Actions Involving Township Trustee

IC 12-20-2-1
Township as real party in interest

Sec. 1. A suit or proceeding in favor of or against a township trustee concerning township assistance shall be conducted in favor of or against the township in the township's corporate name.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.11.

IC 12-20-2-2
Repealed

(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-3

Chapter 3. Office of Township Trustee

IC 12-20-3-1

Jurisdiction of division of family resources; investigations; reports

Sec. 1. (a) A township trustee is not under the jurisdiction of the division of family resources.

(b) The division of family resources:

(1) may not subject a township trustee to investigation concerning the trustee's official duties; and

(2) has no authority to make a report with reference to the official duties of a township trustee.

As added by P.L.2-1992, SEC.14. Amended by P.L.145-2006, SEC.111.

IC 12-20-3-2

Governor's powers

Sec. 2. The governor may not do any of the following:

(1) Hold a hearing in reference to a township trustee's official duties.

(2) Remove a township trustee from office.

(3) Declare the office of a township trustee vacant.

As added by P.L.2-1992, SEC.14.

IC 12-20-3-3

Vacation of office or death; delivery of records to successor

Sec. 3. (a) If a township trustee, who serves as administrator of township assistance, is removed from office, resigns, or in any other way vacates the office of township trustee, the township trustee shall immediately deliver all books, papers, and other materials concerning the office to the trustee's successor upon the successor's appointment.

(b) If a township trustee, who serves as administrator of township assistance, dies, the township trustee's executors or administrators shall, not more than forty (40) days after the trustee's death, deliver all materials belonging to the township trustee's office to the trustee's successor in office.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.12.

IC 12-20-4

Chapter 4. Employees of Township Trustee

IC 12-20-4-1

Office expense and clerical help

Sec. 1. The township trustee may pay out of township assistance money the necessary office expense and clerical or other help necessary to properly administer township assistance.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.13.

IC 12-20-4-2

Supervisors, investigators, assistants, and employees; compensation

Sec. 2. The township trustee of each township, in the trustee's official capacity as chief executive officer within the township, may do the following:

(1) Employ supervisors, investigators, assistants, or other necessary employees in discharging the township trustee's duties concerning the provision of township assistance.

(2) Fix the salaries or wages to be paid to the supervisors, investigators, assistants, and other necessary employees employed by the township trustee.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.15; P.L.73-2005, SEC.14.

IC 12-20-4-3

Supervisors, investigators, assistants, and employees; number; pay

Sec. 3. (a) The township trustee shall determine the number of township assistance supervisors, investigators, assistants, or other necessary employees that are employed by the township to administer township assistance.

(b) The pay of township assistance supervisors, investigators, assistants, and other necessary employees shall be fixed by the township trustee subject only to the total budgetary appropriation for personnel services for the administration of township assistance approved by the township board.

(c) A township assistance supervisor, investigator, assistant, or other necessary employee who uses an automobile in the performance of the employee's work is entitled to the same mileage paid to state officers and employees.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.16; P.L.73-2005, SEC.15.

IC 12-20-4-4

Qualifications of investigators

Sec. 4. An individual may not be employed as a township assistance investigator unless the individual:

(1) is a high school graduate or possesses an equivalent degree;

(2) is at least eighteen (18) years of age; and

(3) is a resident of the county where the township is located.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.17; P.L.73-2005, SEC.16.

IC 12-20-4-5
Number of supervisors employed; compensation

Sec. 5. (a) The number of supervisors of township assistance investigators may not exceed one (1) supervisor for the first four (4) township assistance investigators. If there are more than four (4) township assistance investigators, the township trustee may employ one (1) additional supervisor for each twelve (12) township assistance investigators or major fraction of that number.

(b) The pay for supervisors of township assistance investigators shall be fixed in the manner provided by law for other township salaries.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.17.

IC 12-20-4-6
Qualifications of supervisors

Sec. 6. An individual may not be employed as a supervisor of township assistance investigators unless the individual:

(1) has been an Indiana resident for at least one (1) year immediately preceding the individual's appointment; or

(2) has had at least one (1) year of experience as a township assistance investigator.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.18.

IC 12-20-4-7
Townships jointly employing investigators; payment

Sec. 7. (a) Two (2) or more townships in the same county may jointly employ an investigator to investigate township assistance applicants and recipients.

(b) Payment for investigations conducted under this section shall be made on the basis of the number of cases handled for each township in the same manner and at the same rate as otherwise provided for the payment of investigators under this chapter.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.18; P.L.73-2005, SEC.19.

IC 12-20-4-8
Repealed

(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-4-9
Repealed

(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-4-10
Repealed

(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-4-11
Supervisors, investigators, assistants, and employees; pay; vacation; sick leave

Sec. 11. (a) A township assistance supervisor, investigator, assistant, or other necessary employee shall be paid only for the number of days the employee is actually engaged in employment during each month.

(b) A township assistance supervisor, investigator, assistant, or other necessary employee shall be paid at the rate established by the township trustee from an appropriation by the township board with no deduction for legal holidays.

(c) A township assistance supervisor, investigator, assistant, or other necessary employee shall be paid out of the same money as claims for township assistance are paid. Claims for pay are payable upon presentation of a sworn claim itemizing each day for which pay is requested. Claims are to be made and filed in the same manner as other claims for township assistance expenditures are payable, at least once each month.

(d) Each township assistance chief deputy, investigator, supervisor, assistant, or other necessary employee may be granted paid vacation leave or sick leave under IC 5-10-6-1.

(e) The township trustee of a township having a population of at least ten thousand (10,000) may appoint a chief deputy. A chief deputy may be paid from any township funds.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.19; P.L.73-2005, SEC.20.

IC 12-20-4-12
Repealed

(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-4-13
Rehabilitation, training, and work programs authorized

Sec. 13. The township trustee may, with the approval of the township board, employ personnel to supervise rehabilitation, training, retraining, and work programs as provided in IC 12-20-13.

As added by P.L.2-1992, SEC.14.

IC 12-20-4-14
Construction of chapter

Sec. 14. This chapter does not limit the reasonable number of employees who may be engaged in any processing of work as provided by law.

As added by P.L.2-1992, SEC.14.

IC 12-20-5

Chapter 5. Powers and Duties of Township Trustee in Administering Township Assistance

IC 12-20-5-1

Powers and duties

Sec. 1. (a) The township trustee of each township is ex officio the administrator of township assistance within the township.

(b) The township trustee shall perform all duties with reference to the poor of the township as prescribed by law.

(c) A township trustee, in discharging the duties prescribed by this article, is designated as the administrator of township assistance.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.21.

IC 12-20-5-2

Oversight and care

Sec. 2. The township trustee, as administrator of township assistance, in each township is responsible for the oversight and care of all poor individuals in the township as long as the individuals remain in the trustee's charge. The township trustee shall see that the individuals are properly taken care of in the manner required by law.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.22.

IC 12-20-5-3

Temporary relief

Sec. 3. The township trustee, as administrator of township assistance, shall investigate and grant temporary relief as provided in IC 12-20-17-3.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.23.

IC 12-20-5.5

Chapter 5.5. Township Assistance Standards

IC 12-20-5.5-1

Processing applications; nondiscrimination

Sec. 1. (a) The township trustee shall process all applications for township assistance according to uniform written standards and without consideration of the race, creed, nationality, or gender of the applicant or any member of the applicant's household.

(b) The township's standards for the issuance of township assistance and the processing of applications must be:

(1) governed by the requirements of this article;

(2) proposed by the township trustee, adopted by the township board, and filed with the board of county commissioners;

(3) reviewed and updated annually to reflect changes in the cost of basic necessities in the township and changes in the law;

(4) published in a single written document, including addenda attached to the document; and

(5) posted in a place prominently visible to the public in all offices of the township trustee where township assistance applications are taken or processed.

As added by P.L.51-1996, SEC.20. Amended by P.L.73-2005, SEC.24.

IC 12-20-5.5-2

Standards; content

Sec. 2. (a) Standards for the administration of township assistance must contain the following:

(1) Criteria for determining township assistance eligibility.

(2) Minimum requirements of township trustee accessibility.

(3) Other information as needed, including the following:

(A) Township office locations, hours, and days of availability.

(B) Initial eligibility criteria.

(C) Continuing eligibility criteria.

(D) Workfare requirements.

(E) Essential and nonessential assets.

(F) Available resources.

(G) Income exemptions.

(H) Application process.

(I) Countable income.

(J) Countable assets.

(K) Wasted resources.

(b) Standards for the administration of township assistance must exclude a Holocaust victim's settlement payment received by an eligible individual from countable assets and countable income.

As added by P.L.51-1996, SEC.20. Amended by P.L.128-1999, SEC.25; P.L.73-2005, SEC.25.

IC 12-20-5.5-3

Adequate access ensured; telephone number; office

Sec. 3. (a) The township trustee shall ensure adequate access to township assistance services, including a published telephone number in the name of the township.

(b) A township assistance office, if separate from the township trustee's residence, must be designated by a clearly visible sign that lists the:

(1) township trustee's name;

(2) availability of township assistance; and

(3) township assistance office's telephone number.

The sign must conform to all local zoning and signage restrictions.

As added by P.L.51-1996, SEC.20. Amended by P.L.73-2005, SEC.26.

IC 12-20-5.5-4

Scheduled hours of township trustee

Sec. 4. (a) This section does not apply to a township trustee who has assisted less than fifty-one (51) households during each of the two (2) years immediately preceding the date of the township trustee's annual report under IC 12-20-28-3.

(b) To ensure minimum accessibility, a township trustee operating a township assistance office in a township with a population of at least ten thousand (10,000) shall provide scheduled office hours for township assistance and staff each office with an individual qualified to:

(1) determine eligibility; and

(2) issue relief sufficient to meet the township assistance needs of the township.

(c) To meet the requirements of subsection (b), the township trustee shall do the following:

(1) Provide township assistance office hours for at least fourteen (14) hours per week.

(2) Provide that there is not more than one (1) weekday between the days the township assistance office is open.

(3) Provide for after hours access to the township assistance office by use of an answering machine or a service:

(A) capable of taking messages; and

(B) programmed to provide information about township assistance office hours.

(4) Respond to a telephone inquiry for township assistance services not more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, after receiving the inquiry.

(5) Post township assistance office hours and telephone numbers at the entrance to each township assistance office.

As added by P.L.51-1996, SEC.20. Amended by P.L.73-2005, SEC.27.

IC 12-20-5.5-5

Inclusion of standards governing provision of basic necessities

Sec. 5. The township's standards for the administration of township assistance must include all applicable standards governing the provision of basic necessities, including maximum amounts, special conditions, or other limitations on eligibility, if any have been established for one (1) or more basic necessities.
As added by P.L.51-1996, SEC.20. Amended by P.L.73-2005, SEC.28.

IC 12-20-5.5-6
Income standards

Sec. 6. (a) A township trustee shall set income standards for the township that provide for financial eligibility in an amount consistent with reasonable costs of basic necessities in the trustee's particular township.

(b) A township trustee may not consider a Holocaust victim's settlement payment received by an eligible individual when setting income standards under this section.
As added by P.L.51-1996, SEC.20. Amended by P.L.128-1999, SEC.26.

IC 12-20-6

Chapter 6. Application for Township Assistance

IC 12-20-6-0.5

Previous denial of assistance or conviction

Sec. 0.5. (a) As used in this section, "member of the applicant's household" includes any person who lives in the same residence as the applicant.

(b) The township trustee shall determine whether an applicant or a member of the applicant's household has been denied assistance under IC 12-14-1-1, IC 12-14-1-1.5, IC 12-14-2-5.1, IC 12-14-2-5.3, IC 12-14-2-18, IC 12-14-2-20, IC 12-14-2-21, IC 12-14-2-24, IC 12-14-2-26, IC 12-14-2.5, or IC 12-14-5.5.

(c) A township trustee has no obligation to extend aid to an applicant or to a member of an applicant's household who has been denied assistance as described in subsection (b).

(d) A township trustee shall not extend aid to an applicant or to a member of an applicant's household if the applicant or the member of the applicant's household has been convicted of an offense under IC 35-43-5-7 or IC 35-43-5-7.1 as follows:

(1) If the conviction is a misdemeanor, a township trustee shall not extend aid to the applicant or the member of the applicant's household for one (1) year after the conviction.

(2) If the conviction is a felony, a township trustee shall not extend aid to the applicant or the member of the applicant's household for ten (10) years after the conviction.

As added by P.L.46-1995, SEC.56.

IC 12-20-6-1

Application and affidavit

Sec. 1. (a) A township trustee may not extend aid to an individual or a household unless an application and affidavit setting forth the personal condition of the individual or household has been filed with the trustee within one hundred eighty (180) days before the date aid is extended.

(b) An individual filing an application and affidavit on behalf of a household must provide the names of all household members and any information necessary for determining the household's eligibility for township assistance. The application must be on the form prescribed by the state board of accounts.

(c) An applicant for utility assistance under IC 12-20-16-3(a) must comply with IC 12-20-16-3(d).

(d) The township trustee may not extend additional or continuing aid to an individual or a household unless the individual or household files an affidavit with the request for assistance affirming how, if at all, the personal condition of the individual or the household has changed from that set forth in the individual's or household's most recent application.

(e) The township trustee shall assist an applicant for township assistance in completing a township assistance application if the

applicant:

(1) has a mental or physical disability, including mental retardation, cerebral palsy, blindness, or paralysis;

(2) has dyslexia; or

(3) cannot read or write the English language.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.21; P.L.259-2001, SEC.1; P.L.73-2005, SEC.29.

IC 12-20-6-2
Repealed

(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-6-3
Eligibility for other public assistance

Sec. 3. Each township trustee shall obtain information about public assistance programs and services administered by the division of family resources and county offices under this article, the Social Security Administration, the federal Food Stamp program (7 U.S.C. 2011 et seq.), or by another federal or state governmental entity. If a trustee believes a township assistance applicant or a member of the applicant's household may be eligible for a public assistance program, the trustee may not extend aid to the applicant or the applicant's household unless the applicant verifies that:

(1) the applicant has filed, within the one hundred eighty (180) days preceding the application for township assistance, an application for assistance under a federal or state public assistance program administered by the division of family resources and county offices or by another federal or state governmental entity;

(2) the applicant or a member of the applicant's household is receiving assistance under a public assistance program administered by the division of family resources and county offices or another federal or state governmental entity; or

(3) the applicant or a member of the applicant's household has an emergency need that the trustee determines must be met immediately.

As added by P.L.2-1992, SEC.14. Amended by P.L.4-1993, SEC.191; P.L.5-1993, SEC.204; P.L.51-1996, SEC.22; P.L.73-2005, SEC.30; P.L.145-2006, SEC.112.

IC 12-20-6-4
Repealed

(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-6-5
Application for other assistance

Sec. 5. If the township trustee determines that an applicant or a member of the applicant's household who is granted emergency township assistance under section 3(3) of this chapter may be eligible for public assistance other than township assistance, the applicant

shall, not more than fifteen (15) working days after the date that emergency township assistance was granted, file an application for public assistance and comply with all the requirements necessary for completing the application process for public assistance administered by the division of family resources and county offices or another federal or state governmental entity. An applicant or a member of the applicant's household who fails to file an application for public assistance not more than fifteen (15) working days after the date that emergency township assistance was granted may not be granted township assistance for sixty (60) days following the grant of township assistance on an emergency basis.
As added by P.L.2-1992, SEC.14. Amended by P.L.4-1993, SEC.192; P.L.5-1993, SEC.205; P.L.51-1996, SEC.23; P.L.73-2005, SEC.31; P.L.145-2006, SEC.113.

IC 12-20-6-5.5
Application for public assistance before granting township assistance

Sec. 5.5. (a) This section does not apply in an emergency.

(b) If, before granting township assistance, the township trustee determines that an applicant or a member of an applicant's household may be eligible for public assistance other than township assistance, the applicant or household member shall, when referred by the township trustee, make an application and comply with all necessary requirements for completing the application process for public assistance administered by:

(1) the division of family resources and county offices; or

(2) any other federal or state governmental entity.

(c) An applicant or a household member who fails to:

(1) file an application as specified in subsection (b); and

(2) show evidence that the application, as referred by the township trustee, was filed not more than fifteen (15) working days after the township trustee's referral;

may be denied township assistance for not more than sixty (60) days.
As added by P.L.51-1996, SEC.24. Amended by P.L.73-2005, SEC.32; P.L.145-2006, SEC.114.

IC 12-20-6-6
Repealed

(Repealed by P.L.262-2003, SEC.9.)

IC 12-20-6-6.5
Denial of relief; welfare fraud

Sec. 6.5. (a) If an individual has been convicted of an offense under IC 35-43-5-7, a township trustee may not extend aid to or for the benefit of that individual for the following periods:

(1) If the conviction is for a misdemeanor, for one (1) year after the conviction.

(2) If the conviction is for a felony, for ten (10) years after the conviction.

(b) If a township trustee finds that an individual has obtained township assistance from any township by means of conduct described in IC 35-43-5-7, the township trustee may refuse to extend aid to or for the benefit of that individual for sixty (60) days after the later of the:

(1) date of the improper conduct; or

(2) date aid was last extended to the individual based on the improper conduct.

As added by P.L.51-1996, SEC.25. Amended by P.L.73-2005, SEC.33.

IC 12-20-6-6.6

Aid cannot pay for goods or services during period when assistance denied

Sec. 6.6. Notwithstanding any other provision of this article:

(1) a township trustee may not extend aid to or for the benefit of an individual if that aid would pay for goods or services provided to or for the benefit of the individual; and

(2) a township is not obligated to pay the cost of basic necessities incurred on behalf of the household in which the individual resides;

during a period that the individual has previously applied for and been denied township assistance.

As added by P.L.51-1996, SEC.26. Amended by P.L.259-2001, SEC.2; P.L.73-2005, SEC.34.

IC 12-20-6-7

Action on application

Sec. 7. (a) In a case of emergency, a trustee shall accept and promptly act upon a completed application from an individual requesting assistance. In a nonemergency request for township assistance, the trustee shall act on the completed application not later than seventy-two (72) hours after receiving the application, excluding weekends and legal holidays listed in IC 1-1-9. The trustee's office shall retain a copy of each application and affidavit whether or not relief is granted.

(b) The actions that a trustee may take on a completed application for township assistance, except in a case of emergency, are the following:

(1) Grant assistance.

(2) Deny assistance, including a partial denial of assistance requested.

(3) Leave the decision pending.

(c) A decision pending determination under subsection (b)(3):

(1) may not remain pending for more than seventy-two (72) hours after the expiration of the period described in subsection (a); and

(2) must include a statement listing the specific reasons that assistance is not granted or denied within the period required under subsection (a).

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.27; P.L.259-2001, SEC.3; P.L.73-2005, SEC.35.

IC 12-20-6-8
Notice of action taken; appeals

Sec. 8. (a) A township trustee shall promptly notify in writing each applicant for township assistance of action taken upon a completed application for township assistance. The trustee shall do the following:

(1) Mail notice or provide personal notice not later than seventy-two (72) hours, excluding weekends and legal holidays listed in IC 1-1-9, after the completed application is received, advising the applicant of the right to appeal an adverse decision of the trustee to the board of commissioners.

(2) Include in the notice required under subdivision (1) the following:

(A) The type and amount of assistance granted.

(B) The type and amount of assistance denied or partially granted.

(C) Specific reasons for denying all or part of the assistance requested.

(D) Information advising the applicant of the procedures for appeal to the board of commissioners.

(b) A copy of the notice described in subsection (a) shall be filed with the recipient's application and affidavit in the trustee's office.

(c) An application for township assistance is not considered complete until all adult members of the requesting household have signed:

(1) the township assistance application; and

(2) any other form, instrument, or document:

(A) required by law; or

(B) determined necessary for investigative purposes by the trustee, as contained in the township's township assistance guidelines.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.28; P.L.259-2001, SEC.4; P.L.73-2005, SEC.36.

IC 12-20-6-9
Investigation; relatives

Sec. 9. If an application for township assistance is made to the township trustee as administrator of township assistance, the township trustee, as administrator of township assistance, shall carefully investigate the circumstances of the applicant and each member of the applicant's household to ascertain the following:

(1) Legal residence.

(2) Names and ages.

(3) Physical condition relating to sickness or health.

(4) Present and previous occupation.

(5) Ability and capacity to perform labor.

(6) The cause of the applicant's or household member's

condition if the applicant or household member is found to be in need and the cause can be ascertained.

(7) Whether the applicant or a member of the applicant's household is entitled to income in the immediate future from any source, including the following:

(A) Past or present employment.

(B) A pending claim or cause of action that may result in a monetary award being received by any member of the applicant's household claiming to be in need.

(C) A pending determination for assistance from any other federal or state governmental entity.

(8) The family relationships of the township assistance applicant.

(9) Whether the township assistance applicant or members of the applicant's household have relatives able and willing to assist the applicant or a member of the applicant's household.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.29; P.L.73-2005, SEC.37.

IC 12-20-6-10

Support by relatives

Sec. 10. (a) As used in this section, "relative" includes only the parent, stepparent, child, stepchild, sibling, stepsibling, grandparent, stepgrandparent, grandchild, or stepgrandchild of a township assistance applicant.

(b) If an applicant who applies for township assistance or a member of the applicant's household has a relative living in the township who is able to assist the applicant or member of the applicant's household, the township trustee shall, as administrator of township assistance and before granting aid a second time, ask the relative to help the applicant or member of the applicant's household, either with material relief or by furnishing employment.

(c) A township trustee may not use township assistance funds to pay the cost of an applicant's shelter with a relative who is the applicant's landlord if the applicant lives in:

(1) the same household as the relative; or

(2) housing separate from the relative and either:

(A) the housing is unencumbered by mortgage; or

(B) the housing has not been previously rented by the relative to a different tenant at reasonable market rates for at least six (6) months.

(d) If shelter payments are made to a relative of a township assistance applicant on behalf of the applicant or a member of the applicant's household, the trustee may file a lien against the relative's real property for the amount of township shelter assistance granted.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.30; P.L.73-2005, SEC.38.

IC 12-20-7

Chapter 7. Consent to Disclosure of Personal Information

IC 12-20-7-1

Consent; form; filing

Sec. 1. (a) Each applicant and each adult member of the applicant's household seeking township assistance must consent to a disclosure and release of information about the applicant and the applicant's household before township assistance may be provided by the township trustee. The consent must be made by signing a form prescribed by the state board of accounts. The form must include the following:

(1) The applicant's name, case number, and address.

(2) The types of information being solicited, including the following:

(A) Countable income.

(B) Countable assets.

(C) Wasted resources.

(D) Relatives capable of providing assistance.

(E) Past or present employment.

(F) Pending claims or causes of action.

(G) A medical condition if relevant to work or workfare requirements.

(H) Any other information required by law.

(3) The names of individuals, agencies, and township trustee offices that will receive the information.

(4) The expiration date of the permission to disclose information.

(b) Information that is declared to be confidential by state or federal statute may not be obtained under the consent form prescribed by this section.

(c) The township trustee shall keep on file and shall make available to the division of family resources and office of Medicaid policy and planning upon request a copy of the signed consent form described in subsection (a).

(d) The township trustee shall send to the county office a copy of the signed consent form described in subsection (a).

(e) The division of family resources, county offices, and the office of Medicaid policy and planning shall make available to the township trustee upon request a copy of signed consent to disclosure and release of information forms in each entity's files.

(f) If an individual who is required to sign a form under this section is unable to sign the form in the township trustee's office due to a physical or mental disability or illness, the township trustee shall make alternate arrangements to obtain the individual's signature.

As added by P.L.2-1992, SEC.14. Amended by P.L.4-1993, SEC.193; P.L.5-1993, SEC.206; P.L.46-1995, SEC.57; P.L.51-1996, SEC.31; P.L.259-2001, SEC.5; P.L.73-2005, SEC.39; P.L.145-2006, SEC.115.

IC 12-20-7-2
Information to township trustee

Sec. 2. (a) The county office shall provide the following information to each township trustee located in the county:

(1) Information that will identify the types of public assistance that are being provided to the individual who signed the consent form and the individual's household.

(2) Information that will identify the amount of public assistance that is being received by the individual who signed the consent form and the individual's household.

(3) Information that will identify the number of individuals in the household of the individual who signed the consent form who are receiving public assistance.

(4) Information regarding the income, resources, or assets of members of the individual's household receiving public assistance.

(b) The county office must provide the information required under subsection (a) not later than fourteen (14) calendar days after obtaining the information.

As added by P.L.2-1992, SEC.14. Amended by P.L.4-1993, SEC.194; P.L.5-1993, SEC.207; P.L.46-1995, SEC.58; P.L.51-1996, SEC.32.

IC 12-20-7-2.5
Information provided to township trustee by department of employment and training

Sec. 2.5. Upon request of the township trustee, the department of employment and training services shall provide without charge information regarding:

(1) income, resources, and assets of; and

(2) benefits received by;

members of an applicant's household.

As added by P.L.51-1996, SEC.33.

IC 12-20-7-3
Salary and wage information

Sec. 3. Upon request of the township trustee, the employer of a township assistance applicant or a member of the applicant's household shall provide the township trustee with information concerning salary or wages earned by the applicant or household member for purposes of determining the financial eligibility of the household to receive township assistance.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.34; P.L.73-2005, SEC.40.

IC 12-20-7-3.5
Provision of information to determine eligibility

Sec. 3.5. Upon request of the township trustee, a person holding assets or title to assets of a township assistance applicant or a member of the applicant's household shall provide the township trustee with information concerning the nature and value of those assets for

purposes of determining the household's financial eligibility to receive township assistance.
As added by P.L.51-1996, SEC.35. Amended by P.L.73-2005, SEC.41.

IC 12-20-7-4
Use of consent forms

Sec. 4. The division of family resources and county offices shall use the consent forms received under this chapter to do the following:

(1) Assist in making eligibility determinations for public assistance programs administered by the division of family resources and county offices.

(2) Assist in reducing fraud and abuse in public assistance programs administered by the division of family resources and county offices.

As added by P.L.2-1992, SEC.14. Amended by P.L.4-1993, SEC.195; P.L.5-1993, SEC.208; P.L.145-2006, SEC.116.

IC 12-20-7-4.5
Authorized use of information

Sec. 4.5. The township trustee shall use the information received under section 2 of this chapter to assist in reducing fraud and abuse in aid programs administered by the township trustee.
As added by P.L.46-1995, SEC.59.

IC 12-20-7-5
Use of information not a public record

Sec. 5. Information that is received through the use of a consent form described in section 1 of this chapter and that is not a public record open to inspection and copying under any statute may be used only in connection with the following:

(1) The administration of the township trustee's township assistance program.

(2) The administration of public assistance programs that are administered by the division of family resources and county offices.

As added by P.L.2-1992, SEC.14. Amended by P.L.4-1993, SEC.196; P.L.5-1993, SEC.209; P.L.73-2005, SEC.42; P.L.145-2006, SEC.117.

IC 12-20-7-6
Unauthorized use or disclosure of information

Sec. 6. A township trustee, an assistant of a township trustee, or an employee or a director of the division of family resources, the office of Medicaid policy and planning, and county offices who knowingly discloses or uses information that is obtained through the use of a consent form described in section 1 of this chapter, except as authorized by this chapter, commits a Class A misdemeanor.
As added by P.L.2-1992, SEC.14. Amended by P.L.4-1993, SEC.197; P.L.5-1993, SEC.210; P.L.145-2006, SEC.118.

IC 12-20-8

Chapter 8. Legal Residence as Condition for Receipt of Township Assistance

IC 12-20-8-1

"Resident" defined

Sec. 1. For purposes of this chapter, an individual is a "resident" of a township or county if the individual:

(1) has located in the township or county; and

(2) intends to make the township or county the individual's sole place of residence.

As added by P.L.2-1992, SEC.14.

IC 12-20-8-2

Relief for residents

Sec. 2. If an individual is a resident of a township or county, the township or county shall relieve and support the individual if the individual is poor and in need of relief.

As added by P.L.2-1992, SEC.14.

IC 12-20-8-3

Intent to become resident; determination

Sec. 3. (a) The township trustee may deny township assistance to an individual if the township trustee determines that the individual does not intend to make the township or county the individual's sole place of residence.

(b) The township trustee may consider all relevant information that supports or refutes the individual's intent to make the township or county the individual's sole place of residence, except the length of time the individual has been located in the township or county.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.43.

IC 12-20-8-4

Continuance of legal residence

Sec. 4. A residence legally acquired continues until the legal residence is lost or defeated by acquiring a new legal residence or by willful and uninterrupted absence from the township in which legal residence has been gained.

As added by P.L.2-1992, SEC.14.

IC 12-20-8-5

Determination of legal residence; factors discounted

Sec. 5. Time spent in a penal institution, public or private charitable or benevolent institution, hospital, fraternal home, or in any place while serving in the armed forces of the United States may not be counted in determining legal residence in Indiana.

As added by P.L.2-1992, SEC.14.

IC 12-20-8-6

Loss of legal residence due to state or federal service

Sec. 6. An individual may not be considered to have lost a legal residence in Indiana because of an absence that is due to business of the state or of the United States.
As added by P.L.2-1992, SEC.14.

IC 12-20-8-7
Assistance notwithstanding inability to establish place of legal settlement

Sec. 7. If the township trustee, as administrator of township assistance, is unable to ascertain and establish the place of legal residence of a poor individual within the township, the township trustee shall proceed to provide assistance to the individual in the same manner as other poor individuals are provided assistance.
As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.44.

IC 12-20-9

Chapter 9. Eligibility of Nonresidents for Township Assistance

IC 12-20-9-1

Repealed

(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-9-2

Temporary aid pending return to legal residence

Sec. 2. If an individual is:

(1) a child;

(2) the parent of a child requiring the parent's care; or

(3) sick, aged, injured, crippled, or physically or mentally unable to work or travel;

the township trustee, as administrator of township assistance, of the township in which the individual is found shall furnish township assistance to the individual until the individual can be returned to the place of the individual's legal residence if that place can be determined.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.45.

IC 12-20-9-3

Return to legal residence

Sec. 3. An individual:

(1) who:

(A) applies to the township trustee, as administrator of township assistance, for assistance or is in need of assistance; or

(B) obtains free medical aid, hospitalization, public institutional care, or assistance in any part at public expense; and

(2) who does not have legal residence in the township;

may be returned by the township trustee, as administrator of township assistance, to the individual's place of legal residence if that place can be determined.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.46.

IC 12-20-9-4

Payment for services provided

Sec. 4. The record of and bill for services provided under this chapter shall be filed and paid in the manner provided for the filing and payment of other kinds of relief provided by the township trustee, as administrator of township assistance. The township trustee, as administrator of township assistance, shall pay bills from any available fund for providing township assistance.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.47.

IC 12-20-9-5

Temporary commitment in county home

Sec. 5. If an individual or a member of an individual's household

who is determined to be eligible for township assistance and entitled to temporary relief is in a township in which the individual or household member does not have legal residence, the township trustee, as administrator of township assistance, may, if the trustee considers advisable, place the individual or household member temporarily in a county home as provided in IC 12-20-17-4.
As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.36; P.L.73-2005, SEC.48.

IC 12-20-9-6
Violations; denial of aid

Sec. 6. An individual may be denied township assistance for not more than one hundred eighty (180) days whenever the individual or a member of the individual's household:

(1) has been:

(A) sent by a township where the individual does not reside to a location outside the township at the individual's request or by court order; and

(B) transported to a location outside the township at public expense; and

(2) knowingly reapplies for assistance in the township from which the individual or member of the individual's household was sent.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.37; P.L.73-2005, SEC.49.

IC 12-20-10

Chapter 10. Employment as Condition for Receipt of Township Assistance

IC 12-20-10-1

Able-bodied assistance applicants to seek employment

Sec. 1. If a township assistance applicant is in good health or if any members of the applicant's household are in good health, the township trustee, as administrator of township assistance, shall require the individuals who are able to work to seek employment. The township trustee shall refuse to furnish any township assistance until the township trustee is satisfied that the township assistance applicant or members of the applicant's household are endeavoring to find work.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.38; P.L.73-2005, SEC.50.

IC 12-20-10-2

Assistance contingent on performance of work; exception

Sec. 2. If:

(1) a township assistance applicant is in good health and able to work; and

(2) either:

(A) the township trustee, as administrator of township assistance, offers employment to the township assistance applicant, regardless of whether the compensation for the work is in the form of money, house rent, or commodities consisting of the necessaries of life; or

(B) employment at a reasonable compensation is offered by any other individual, governmental agency, or employer;

the township trustee, as administrator of township assistance, shall not furnish township assistance to the applicant until the township assistance applicant performs the work or shows just cause for not performing the work. However, a township assistance applicant may be given admission to the county home, where the township assistance applicant shall be compelled to work.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.39; P.L.73-2005, SEC.51.

IC 12-20-10-3

Aid in securing employment; trustee

Sec. 3. A township trustee, as administrator of township assistance, shall make all possible efforts to secure employment for an able-bodied township assistance applicant in the township where the applicant resides.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.52.

IC 12-20-10-3.5

Medical examination

Sec. 3.5. If a township assistance applicant or a member of the

applicant's household claims an inability to work due to health, the township trustee may require and provide for any medical examination necessary for the township trustee to determine whether the applicant or household member is able to perform work.
As added by P.L.51-1996, SEC.40. Amended by P.L.73-2005, SEC.53.

IC 12-20-10-4
Aid in securing employment; township residents

Sec. 4. The township trustee may call upon residents of the township to aid in finding employment for a township assistance applicant who is able to work.
As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.54.

IC 12-20-11

Chapter 11. Workfare as Condition for Receipt of Township Assistance

IC 12-20-11-1

Public projects work requirement for township assistance recipients; exceptions; determination of suitability; value of performance; furnished equipment; supervision; insurance; displacement of employees; failure to comply

Sec. 1. (a) The township trustee shall obligate any adult member of a recipient household to do any work needed to be done within the county or an adjoining township in any other county for any nonprofit agency or governmental unit, including the state, having jurisdiction in those townships, unless:

(1) the obligated individual is not physically able to perform the proposed work;

(2) the obligated individual is a minor or is at least sixty-five (65) years of age;

(3) the obligated individual has full-time employment at the time the recipient receives township assistance;

(4) the obligated individual is needed to care for an individual as a result of the individual's age or physical condition;

(5) the township trustee determines that there is no work available for any adult member of the recipient household; or

(6) the individual obligated to perform the work is, at the direction of the township trustee, attending:

(A) courses under section 3 of this chapter; or

(B) a job training program under IC 12-20-12-1 or another job training program approved by the township trustee.

(b) The township trustee shall determine a township assistance applicant's suitability to perform available work under this section. The township trustee may provide for medical examinations necessary to make the determination.

(c) A township assistance recipient shall perform an amount of work that equals the value of assistance received by the township assistance recipient or the recipient's household. The township assistance recipient shall receive credit for the work performed, as assigned by the township trustee, at a rate not less than the federal minimum wage.

(d) The unit of government or nonprofit agency for which work is performed under this section shall furnish the necessary tools, materials, or transportation, unless the trustee agrees in writing to furnish the necessary tools, materials, or transportation.

(e) Supervision of the work of a township assistance recipient under this section is the responsibility of the governmental unit or nonprofit agency for which the work is performed.

(f) The township trustee shall see that a township assistance recipient performing work under this section is covered by adequate liability insurance for injuries or damages suffered by or caused by the township assistance recipient.

(g) A township assistance recipient may not be assigned to work that would result in the displacement of governmental employees or in the reduction of hours worked by governmental employees.

(h) The failure of a township assistance recipient to perform work assigned by the township trustee within a reasonable period required by the township trustee is a basis for denying further assistance to the recipient or the recipient's household for not more than one hundred eighty (180) days, unless the recipient shows good cause for not performing the work.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.41; P.L.73-2005, SEC.55.

IC 12-20-11-2

Nonprofit human services agency employment; suitability; value of performance; furnished equipment; supervision; insurance; displacement of employees

Sec. 2. (a) The township trustee may require the recipient to perform work for nonprofit human services agencies located within the county or an adjoining township in another county unless the recipient attends courses under section 3 of this chapter.

(b) The township trustee shall determine a township assistance applicant's suitability to perform available work under this section. The township trustee may provide for medical examinations necessary to make the determination.

(c) A township assistance recipient shall perform an amount of work that equals the value of assistance received by the township assistance recipient or the recipient's household. The township assistance recipient shall work off the assistance at a rate not less than the federal minimum wage.

(d) The nonprofit agency for which work is performed under this section shall furnish the necessary tools, materials, or transportation, unless the trustee agrees in writing to furnish the necessary tools, materials, or transportation to and from the work site from the trustee's office.

(e) Supervision of the work of a township assistance recipient under this section is the responsibility of the nonprofit agency for which the work is performed.

(f) The township trustee shall ensure that a township assistance recipient performing work under this section is covered by adequate liability insurance for injuries or damages suffered by or caused by the township assistance recipient.

(g) A township assistance recipient may not be assigned to work that would result in the displacement of employees of the nonprofit agency or in the reduction of hours worked by those employees.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.56.

IC 12-20-11-3

Work exemption and tuition reimbursement for education courses

Sec. 3. (a) If a township assistance recipient, after referral by the township trustee, is accepted and attends:

(1) adult education courses under IC 20-30-6-1 (before its repeal) or IC 22-4.1-18; or

(2) courses at Ivy Tech Community College;

the township assistance recipient is exempt from performing work or searching for work for not more than one hundred eighty (180) days.

(b) The township trustee may reimburse a township assistance recipient for tuition expenses incurred in attending the courses described in subsection (a) if the recipient:

(1) has a proven aptitude for the courses being studied;

(2) was referred by the trustee;

(3) does not qualify for other tax supported educational programs;

(4) maintains a passing grade in each course; and

(5) maintains the minimum attendance requirements specified by the educational institution.

As added by P.L.2-1992, SEC.14. Amended by P.L.5-1995, SEC.7; P.L.51-1996, SEC.42; P.L.1-2005, SEC.138; P.L.127-2005, SEC.6; P.L.1-2006, SEC.196; P.L.2-2007, SEC.161; P.L.7-2011, SEC.3.

IC 12-20-11-4

Satisfaction of prior township obligations prerequisite to additional township assistance; hardship temporary assistance; confirming documentation

Sec. 4. (a) The township trustee may require a township assistance applicant or an adult member of the applicant's household to satisfy all obligations to perform work incurred in another township before additional township assistance is granted. However, in case of an emergency, the trustee may temporarily waive the work obligation incurred from another township and provide temporary assistance to an applicant or a household in order to relieve need or immediate suffering.

(b) The township trustee may request from another township trustee documentation necessary to confirm that a township assistance applicant or an adult member of the applicant's household performed or did not perform work in another township.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.43; P.L.73-2005, SEC.57.

IC 12-20-11-5

Application of worker's compensation laws; repayment of assistance

Sec. 5. (a) Work performed under this chapter is considered as satisfaction of a condition for township assistance and is not considered as services performed for remuneration or as repayment for township assistance. However, a township assistance recipient performing work under this chapter and the governmental unit or nonprofit agency for which the recipient works are covered by the medical treatment and burial expense provisions of IC 22-3-2 through IC 22-3-6 with regard to the work performed.

(b) A township trustee may not seek federal or state

reimbursement, foreclose a lien, or otherwise seek repayment of assistance for which a recipient or an adult member of the recipient's household has satisfactorily completed a workfare requirement.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.44; P.L.73-2005, SEC.58.

IC 12-20-12

Chapter 12. Job Training as Condition for Receipt of Township Assistance

IC 12-20-12-1

Required participation in training program

Sec. 1. As a condition of continuing eligibility, a township trustee may require a recipient of township assistance or any member of a recipient's household to participate in an appropriate work training program that is offered to the recipient or a member of the recipient's household within the county or an adjoining township in another county by a:

(1) federal, state, or local governmental entity; or

(2) nonprofit agency.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.45; P.L.259-2001, SEC.6; P.L.73-2005, SEC.59.

IC 12-20-13

Chapter 13. Rehabilitation, Training, and Work Programs Conducted by Township Trustee's Office

IC 12-20-13-1

Rehabilitation, training, and work programs for township assistance recipients

Sec. 1. A township trustee may, with the approval of the township board, do the following:

(1) Conduct the following for township assistance recipients in the township:

(A) Rehabilitation programs.

(B) Training programs.

(C) Retraining programs.

(D) Work programs.

(2) Employ personnel to supervise the programs.

(3) Pay the costs of the programs from township assistance money.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.60.

IC 12-20-13-2

Repealed

(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-13-3

Appropriations

Sec. 3. (a) An expenditure of money may not be made under this chapter except after a specific appropriation made and approved in the manner provided by law.

(b) An appropriation may not be made or approved unless a sufficient amount of money to cover the proposed expenditure is included in the annual budget of the township trustee for township assistance purposes.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.61.

IC 12-20-14

Chapter 14. Termination or Reduction of Township Assistance

IC 12-20-14-1

Repealed

(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-14-2

Repealed

(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-15

Chapter 15. Appeal of Denial or Reduction in Amount of Township Assistance

IC 12-20-15-1

Appeal by unsatisfied township assistance applicants or recipients to board of commissioners

Sec. 1. If an applicant for or recipient of township assistance is not satisfied with the decision of the township trustee, as administrator of township assistance, the applicant or recipient may appeal to the board of commissioners.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.62.

IC 12-20-15-2

Time for applicant's appeal

Sec. 2. An applicant for township assistance must file the applicant's appeal not more than fifteen (15) days from the date of issuance by the township trustee of adequate written notice of the denial of township assistance as provided by IC 12-20-6-8. An appeal must be made in writing or orally as required by the board of commissioners.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.46; P.L.73-2005, SEC.63.

IC 12-20-15-3

Hearing on appeal; uniform written procedures

Sec. 3. (a) The board of county commissioners may:

(1) conduct a hearing on the appeal; or

(2) appoint a hearing officer:

(A) from among the board;

(B) from among the employees of the board; or

(C) from qualified residents of the county;

who will conduct a hearing for the board.

(b) The board of county commissioners shall develop uniform written procedures, including provisions for:

(1) before the hearing, an opportunity for the appellant or the appellant's legal representative to review the appellant's township assistance file and any documents or evidence used by the township trustee to make the determination under appeal;

(2) the order of the proceeding and the procedure for subpoena:

(A) of a witness; or

(B) for production of evidence;

if reasonably requested by the appellant or the township trustee; and

(3) the issuance of a hearing decision within the period prescribed by section 6(b)(2) of this chapter.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.47; P.L.262-2003, SEC.2; P.L.73-2005, SEC.64.

IC 12-20-15-4

Review of documents and standards for hearings on appeal; remanding cases to trustees

Sec. 4. (a) In hearing an appeal, the board of commissioners and a hearing officer shall:

(1) review and consider any report or investigative documents the trustee prepared before making the appealed decision; and

(2) be governed by the township's township assistance standards for determining eligibility to the extent that the standards comply with existing law for the granting of township assistance. If no legally sufficient standards have been established, the board of commissioners and the hearing officer shall be guided by the circumstances in each case.

(b) The board of commissioners shall remand a case to a trustee for further proceedings if:

(1) new evidence was presented by the applicant to the board of commissioners; and

(2) the board of commissioners determines that the new evidence presented would have made the individual eligible for assistance.

(c) If a case is remanded to a trustee, the trustee shall issue a new determination of eligibility not later than seventy-two (72) hours after receiving the written decision remanding the case, excluding weekends and legal holidays listed in IC 1-1-9.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.48; P.L.262-2003, SEC.3; P.L.73-2005, SEC.65.

IC 12-20-15-5

Necessary parties at hearing

Sec. 5. The appellant must be present at a hearing conducted by the board of commissioners or a hearing officer. The township trustee, as administrator of township assistance, or the trustee's representative shall be notified in writing of the hearing date and time, but the failure of the township trustee or the trustee's representative to be present is not a cause for postponement of the hearing unless the trustee requests and is granted a continuance. A continuance requested by the township trustee does not reduce the period required for a decision under section 6(b)(2) of this chapter.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.49; P.L.73-2005, SEC.66.

IC 12-20-15-6

Timing of hearing on appeal; written decision

Sec. 6. (a) The board of commissioners shall hold a hearing as soon as possible after the filing of an appeal but not more than ten (10) working days after the appeal form or other notice of appeal is received in the office of the board of commissioners.

(b) The board of commissioners shall issue a written decision that must:

(1) appear in the official records of the board;

(2) be issued to the appellant and the township trustee not more

than five (5) working days following the date of the hearing;
(3) state the legal and factual basis for the decision;
(4) advise the appellant and the township trustee of the right to judicial review and the period prescribed for requesting judicial review; and
(5) inform the appellant of the availability of free legal counsel for the indigent.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.50.

IC 12-20-15-7
Implementation of board's decision

Sec. 7. The township trustee, as administrator of township assistance, shall carry out a decision of the board to sustain, increase, grant, or otherwise modify township assistance only if the board of commissioners complies with the requirements for a written decision under section 6 of this chapter.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.51; P.L.73-2005, SEC.67.

IC 12-20-15-8
Appeal to circuit or superior court

Sec. 8. (a) The township trustee or an applicant may appeal a decision of the board of commissioners to a circuit or superior court with jurisdiction in the county.

(b) In hearing an appeal, the court shall be governed by the township's township assistance standards for determining eligibility for granting township assistance in the township. If legally sufficient standards have not been established, the court shall be guided by the circumstances of the case.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.52; P.L.73-2005, SEC.68.

IC 12-20-15-9
Recovery of assistance awarded upon successful appeal by trustee

Sec. 9. If the court sets aside a decision of the board of commissioners in favor of an applicant, the township trustee may recover the amount of any assistance awarded as a result of the board's decision.

As added by P.L.2-1992, SEC.14.

IC 12-20-16

Chapter 16. Provision of Various Forms of Township Assistance

IC 12-20-16-1

Assistance only upon necessity

Sec. 1. A township trustee, as administrator of township assistance, may provide and shall extend township assistance only when the personal effort of the township assistance applicant fails to provide one (1) or more basic necessities.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.53; P.L.73-2005, SEC.69.

IC 12-20-16-2

Medical assistance; necessity

Sec. 2. (a) Except as provided in subsections (b) and (c), the township trustee shall, in cases of necessity, do the following:

(1) Promptly provide medical assistance for poor individuals in the township who are not provided for in public institutions.

(2) See that medicines, medical supplies, special diets, or tests prescribed by a physician or surgeon in attendance upon poor individuals in the township are properly furnished.

(b) A township trustee may not provide to an individual medical assistance under the township assistance program if the individual could qualify for medical assistance for the same service under:

(1) IC 12-16;

(2) Medicaid;

(3) other governmental medical programs; or

(4) private health insurance that would cover the individual at the time the assistance was provided. However, if the individual's insurance does not pay for the medical assistance due to a policy deductible or other policy limitation, the township trustee shall pay for medical assistance that the trustee would provide if the individual did not have insurance.

However, a township trustee may provide interim medical services during the period that the individual has an application pending for medical assistance under Medicaid (IC 12-15) or another governmental medical program if the individual is reasonably complying with all requirements of the application process.

(c) The township trustee shall pay only for the following medical services for the poor of the township:

(1) Prescription drugs, not to exceed a thirty (30) day supply at a time, as prescribed by an attending practitioner (as defined in IC 16-42-19-5) other than a veterinarian. However, if the prescription drugs are available only in a container that contains more than a thirty (30) day supply, the township trustee may pay for the available size.

(2) Office calls to a physician licensed under IC 25-22.5 or another medical provider.

(3) Dental care needed to relieve pain or infection or to repair

cavities.

(4) Repair or replacement of dentures.

(5) Emergency room treatment that is of an emergency nature.

(6) Preoperation testing prescribed by an attending physician licensed under IC 25-22.5.

(7) Over-the-counter drugs prescribed by a practitioner (as defined in IC 16-42-19-5) other than a veterinarian.

(8) X-rays and laboratory testing as prescribed by an attending physician licensed under IC 25-22.5.

(9) Visits to a medical specialist when referred by an attending physician licensed under IC 25-22.5.

(10) Physical therapy prescribed by an attending physician licensed under IC 25-22.5.

(11) Eyeglasses.

(12) Repair or replacement of a prosthesis not provided for by other tax supported state or federal programs.

(13) Insulin and items needed to administer the biological, not to exceed a thirty (30) day supply at a time, in accordance with section 14 of this chapter. However, if the biologicals are available only in a container that contains more than a thirty (30) day supply, the township trustee may pay for the available size.

(d) The township trustee may establish a list of approved medical providers to provide medical services to the poor of the township. Any medical provider who:

(1) can provide the particular medical services within the scope of the provider's license issued under IC 25; and

(2) is willing to provide the medical services for the charges established by the township trustee;

is entitled to be included on the list.

(e) Unless prohibited by federal law, a township trustee who:

(1) provides to an individual medical assistance that is eligible for payment under any medical program described in subsection (b) for which payments are administered by an agency of the state during the pendency of the individual's successful application for the program; and

(2) submits a timely and proper claim to the agency;

is eligible for reimbursement by the agency to the same extent as any medical provider.

(f) If a township trustee provides medical assistance for medical services provided to an individual who is subsequently determined to be eligible for Medicaid:

(1) the township trustee shall notify the medical provider that provided the medical services of the individual's eligibility; and

(2) not later than thirty (30) days after the medical provider receives the notice under subdivision (1), the medical provider shall file a claim for reimbursement with the office.

(g) A medical provider that is reimbursed under subsection (f) shall, not later than thirty (30) days after receiving the reimbursement, pay to the township trustee the lesser of:

(1) the amount of medical assistance received from the trustee to an individual; or

(2) the amount reimbursed by Medicaid to the medical provider.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.54; P.L.262-2003, SEC.4; P.L.73-2005, SEC.70.

IC 12-20-16-3

Utility services payment; necessity; eligibility

Sec. 3. (a) The township trustee may, in cases of necessity, authorize the payment from township assistance money for essential utility services, including the following:

(1) Water services.

(2) Gas services.

(3) Electric services.

(4) Fuel oil services for fuel oil used for heating or cooking.

(5) Coal, wood, or liquid propane used for heating or cooking.

(b) The township trustee may authorize the payment of delinquent bills for the services listed in subsection (a)(1) through (a)(5) when necessary to prevent the termination of the services or to restore terminated service if the delinquency has lasted not longer than twenty-four (24) months. The township trustee has no obligation to pay a delinquent bill for the services or materials listed in subsection (a)(1) through (a)(5) if the delinquency has lasted longer than twenty-four (24) months.

(c) The township trustee is not required to pay for any utility service:

(1) that is not properly charged to:

(A) an adult member of a household;

(B) an emancipated minor who is head of the household; or

(C) a landlord or former member of the household if the applicant proves that the applicant:

(i) received the services as a tenant residing at the service address at the time the cost was incurred; and

(ii) is responsible for payment of the bill;

(2) received as a result of a fraudulent act by any adult member of a household requesting township assistance; or

(3) that includes the use of township assistance funds for the payment of:

(A) a security deposit; or

(B) damages caused by a township assistance applicant to utility company property.

(d) The amount paid by the township trustee, as administrator of township assistance, and the amount charged for water services may not exceed the minimum rate charged for the service as fixed by the Indiana utility regulatory commission.

(e) This subsection applies only during the part of each year when applications for heating assistance are accepted by the lieutenant governor under IC 4-4-33. A township trustee may not provide assistance to make any part of a payment for heating fuel or electric services for more than thirty (30) days unless the individual files an

application with the township trustee that includes the following:

(1) Evidence of application for assistance for heating fuel or electric services from the lieutenant governor.

(2) The amount of assistance received or the reason for denial of assistance.

The township trustee shall inform an applicant for assistance for heating fuel or electric services that assistance for heating fuel and electric services may be available from the lieutenant governor under IC 4-4-33 and that the township trustee may not provide assistance to make any part of a payment for those services for more than thirty (30) days unless the individual files an application for assistance for heating fuel or electric services under IC 4-4-33. However, if the applicant household is eligible under criteria established by the lieutenant governor for energy assistance under IC 4-4-33, the trustee may certify the applicant as eligible for that assistance by completing an application form prescribed by the state board of accounts and forwarding the eligibility certificate to the lieutenant governor within the period established for the acceptance of applications. If the trustee follows this certification procedure, no other application is required for assistance under IC 4-4-33.

(f) If an individual or a member of an individual's household has received assistance under subsection (b), the individual must, before the individual or the member of the individual's household may receive further assistance under subsection (b), certify whether the individual's or household's income, resources, or household size has changed since the individual filed the most recent application for township assistance. If the individual or a member of the individual's household certifies that the income, resources, or household size has changed, the township trustee shall review the individual's or household's eligibility and may make any necessary adjustments in the level of assistance provided to the individual or to a member of the individual's household.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.55; P.L.259-2001, SEC.7; P.L.73-2005, SEC.71; P.L.141-2006, SEC.60; P.L.181-2006, SEC.55; P.L.1-2007, SEC.125.

IC 12-20-16-4
Repealed

(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-16-5
Food relief

Sec. 5. (a) An applicant or a household that receives food relief in any township having a population of more than ten thousand (10,000) may request the township trustee, as administrator of township assistance, to issue a food order upon any eligible market, and the township trustee, as administrator of township assistance, shall abide by that request.

(b) The amount of a food order for various sized households that are determined by the trustee to be eligible for township assistance

shall be based upon uniform monthly amounts specified in the township's township assistance standards. However, an additional amount of food may be ordered for special health reasons as prescribed by a physician. A supplemental food order may be issued because of the loss of the recipient's food by:

(1) fire, flood, or other natural disaster;

(2) burglary or other criminal act; or

(3) the unpreventable spoilage of food.

(c) The trustee may issue a food order to an eligible applicant on either a daily, weekly, or monthly basis.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.56; P.L.73-2005, SEC.72.

IC 12-20-16-6

Federal food stamp program eligibility

Sec. 6. (a) Except as provided in subsection (b), a township trustee, as administrator of township assistance, may not purchase food out of the township assistance fund for an applicant or a household that is eligible to participate in the federal food stamp program.

(b) A township trustee, as administrator of township assistance, may purchase food for an eligible food stamp applicant or household only under any of the following conditions:

(1) During the interim period beginning when an applicant or a household is awaiting a determination of eligibility from the food stamp office and ending not more than five (5) days after the day the applicant or household becomes eligible to participate in the federal food stamp program.

(2) Upon the verified loss of the household's food stamps or food supply by:

(A) fire or other natural disaster; or

(B) burglary or other criminal act, if the requesting applicant or household files a report with the appropriate law enforcement agency.

(3) Upon the loss of the applicant's or household's food supply through spoilage.

(4) Upon a written statement from a physician indicating that at least one (1) member of the household needs a special diet, the cost of which is greater than can be purchased with the household's allotment of food stamps.

(5) If the township trustee, as administrator of township assistance, determines that an applicant or a household:

(A) is in need of supplementary food assistance; and

(B) has participated in the federal food stamp program to the fullest extent allowable under federal and state law;

and supplementary food assistance is required by the circumstances of the particular case.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.57; P.L.73-2005, SEC.73.

IC 12-20-16-7

Eligible markets; continuing eligibility; purchase order itemization

Sec. 7. (a) A combined grocery (marketing fresh vegetables, fresh eggs, and dairy products) and meat market (marketing fresh meat) in a township having a population of more than ten thousand (10,000) is eligible to accept food purchase orders from the township trustee, as administrator of township assistance, in the township in which the market is located if the owner of the market has applied to the township trustee using a form prescribed by the state board of accounts.

(b) A market described in subsection (a) remains eligible to accept township food purchase orders unless any of the following conditions exist:

(1) The owner notifies the township trustee, as administrator of township assistance, to remove the owner's market from the eligible list.

(2) An appropriate health or other governmental agency closes the market.

(3) The township trustee, as administrator of township assistance, removes the market from the eligible list for a period not to exceed six (6) months because the management of the market, in filling a township food or household supply order:

(A) includes in the order tobacco products, alcoholic beverages, or other nonqualifying items; or

(B) fails to routinely request identification from an individual who redeems a township purchase order.

(4) A person who owns or is employed by the market has been convicted of township assistance fraud under IC 12-20-1-4(c).

(c) A combined grocery and meat market shall, in filling a township purchase order for food and household supplies, attach to the purchase order form either a cash register tape or a written or typed itemization of the cost of the food and household supplies purchased. Household supplies, including first aid and medical supplies, are not considered food.

(d) The cash register tape or itemization required by subsection (c) is the full and complete record of purchase for all purposes. More complete records or itemization may not be required by any individual, government official, or entity.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.58; P.L.73-2005, SEC.74.

IC 12-20-16-8

Incompetent head of family; alternate food purchase order issuance

Sec. 8. (a) If an applicant or a household is considered by the township trustee, as administrator of township assistance, to be incompetent or irresponsible to select food from a combined grocery and meat market or to make proper use of food stamps, the township trustee, as administrator of township assistance, shall issue the food purchase order in the name of one (1) of the following:

(1) Another adult member of the household.
(2) Another relative living in another household.
(3) Any other individual considered competent by the township trustee, as administrator of township assistance.

(b) For the purpose of selecting the combined grocery and meat market in a township having a population of more than ten thousand (10,000) from which food for the household is to be obtained, the competent individual referred to in subsection (a) shall be considered the individual responsible.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.59; P.L.73-2005, SEC.75.

IC 12-20-16-9

Limitation on food assistance; food stamp application

Sec. 9. (a) A township trustee may not provide food assistance for more than thirty (30) days unless an individual files an application with the township trustee that includes the following:

(1) Evidence of application for food stamps from the division of family resources.
(2) The amount of assistance received or the reason for denial of assistance.

(b) The township trustee shall inform an applicant for food assistance that food stamps may be available from the division of family resources and that the township trustee may not provide food assistance for more than thirty (30) days unless the individual files an application for food stamps with the division of family resources.

As added by P.L.2-1992, SEC.14. Amended by P.L.145-2006, SEC.119.

IC 12-20-16-10

Livestock; feed instead of cost of food

Sec. 10. The township trustee, as administrator of township assistance, may purchase feed for a minimum amount of subsistence livestock if the cost is less than the cost of food that is otherwise necessary for the township trustee to furnish under this chapter.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.76.

IC 12-20-16-11

Nonresidents; transportation without ascertaining legal residence

Sec. 11. (a) A township trustee may not furnish a nonresident of a township with transportation at the cost of the township until the township trustee, as administrator of township assistance, determines the legal residence of the individual applying for assistance.

(b) Transportation provided to a nonresident of a township must be in the direction of the nonresident's legal residence unless it is shown that the individual in need has a valid claim for support or a means of support in some other place to which the individual asks to be sent.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.60; P.L.73-2005, SEC.77.

IC 12-20-16-12
Funeral and burial or cremation expenses

Sec. 12. (a) This section does not apply if the county coroner assumes jurisdiction of an unclaimed body under IC 36-2-14-16.

(b) If:

(1) an individual dies in a township without leaving:

(A) money;

(B) real or personal property;

(C) other assets that may be liquidated; or

(D) other means necessary to defray funeral expenses; and

(2) the individual is not a resident of another township in Indiana;

the township trustee, as administrator of township assistance, shall provide a person to superintend and authorize either the funeral and burial or cremation of the deceased individual. If the township trustee determines that the deceased individual is a resident of another township in Indiana, the township trustee shall notify the trustee of that township, who shall then provide a person to superintend and authorize either the funeral and burial or cremation of the deceased individual.

(c) The necessary and reasonable expenses of the funeral and burial or cremation, including a burial plot, shall be paid in the same manner as other claims for township assistance. A trustee shall determine the cost for the items and services required by law for the funeral and burial of an individual, including a burial plot, and for the cremation of an individual, and include in the township's township assistance standards the maximum funeral and burial or cremation amount to be paid from township assistance funds. The trustee may deduct from the maximum amount the following:

(1) Any monetary benefits that the deceased individual is entitled to receive from a state or federal program.

(2) Any money that another person provides on behalf of the deceased individual.

(d) If an individual described in subsection (b) is a resident of a state institution at the time of the individual's death, the division that has administrative control of the state institution shall reimburse the township trustee for the necessary and reasonable expenses of the funeral and burial or cremation of the deceased individual. The township trustee shall submit to the division that has administrative control of the state institution an itemized claim for reimbursement of the necessary and reasonable funeral and burial or cremation expenses incurred by the township trustee.

(e) If an individual described in subsection (b) is a resident of a special institution governed by IC 16-33 at the time of the individual's death, the state department of health shall reimburse the township trustee for the necessary and reasonable expenses of the funeral and burial or cremation of the deceased individual. The township trustee shall submit to the state department of health an itemized claim for reimbursement of the necessary and reasonable funeral and burial or cremation expenses incurred by the township

trustee.

(f) A township trustee who provides funeral and burial or cremation benefits to a deceased individual is entitled to a first priority claim, to the extent of the cost of the funeral and burial or cremation benefits paid by the township trustee, against any money or other personal property held by the coroner under IC 36-2-14-11.

(g) The township trustee may not cremate a deceased individual if:

(1) the deceased individual; or

(2) a surviving family member of the deceased individual;

has objected in writing to cremation.

(h) If a township trustee provides a funeral under this section, the cost of the funeral may not be more than the cost of the least expensive funeral, including any necessary merchandise and embalming, available from the funeral director under the funeral director's price list disclosed to the Federal Trade Commission.

As added by P.L.2-1992, SEC.14. Amended by P.L.162-1995, SEC.1; P.L.51-1996, SEC.61; P.L.73-2005, SEC.78.

IC 12-20-16-13

Processing purchased and donated materials for township assistance; gardens

Sec. 13. (a) The township trustee, as administrator of township assistance, may process at the expense of the township materials provided by charitable or governmental agencies to provide any item of township assistance if the expense of the processing is less than the cost of the finished product.

(b) The township trustee, as administrator of township assistance, may buy materials and supplies of any item of relief and may process the materials for township assistance purposes.

(c) The township trustee, as administrator of township assistance, may buy garden seeds and plant and maintain gardens for township assistance purposes.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.79.

IC 12-20-16-14

Insulin

Sec. 14. The township trustee is authorized to provide insulin to individuals who are in need of insulin treatment and who are financially unable to purchase the insulin, upon application of a physician licensed under IC 25-22.5 or an advanced practice nurse who is licensed under IC 25-23 and who meets the requirements of IC 25-23-1-11 and IC 25-23-1-19.5. However, an application submitted by a physician or an advanced practice nurse under this section must meet the requirements of IC 16-41-19-4.

As added by P.L.2-1992, SEC.14. Amended by P.L.262-2003, SEC.5.

IC 12-20-16-15

Placement of indigents in county home

Sec. 15. The township trustee may place indigent individuals in

the county home in accordance with IC 12-30-4.
As added by P.L.2-1992, SEC.14.

IC 12-20-16-17
Inspection of housing units; substandard housing; shelter damage or security deposit; eligibility for shelter assistance

Sec. 17. (a) A township trustee may employ the services of a housing inspector to inspect all housing units, including:

(1) mobile homes;
(2) group homes;
(3) single household units;
(4) multiple household units;
(5) apartments; or
(6) any other dwelling;

inhabited by a township assistance recipient.

(b) A township trustee may contract with a local housing authority:

(1) for housing inspection services; and
(2) to train a township housing inspector.

Costs of these contractual services shall be paid from the township assistance fund.

(c) A township housing inspector shall use the following for determining a housing structure's suitability for habitation:

(1) Standards recommended by the United States Department of Housing and Urban Development as used by local housing authorities.
(2) Local building codes and municipal ordinances.

(d) Substandard housing that does not meet minimum standards of health, safety, and construction is not eligible for:

(1) the maximum level of shelter payments; or
(2) damage or security deposits paid from or encumbered by township funds.

(e) If the trustee determines that a housing unit for which payment is requested is substantially below minimum standards of health, safety, or construction, the trustee, when necessary, shall assist the applicant in obtaining appropriate alternate shelter.

(f) A township trustee is not required to spend township assistance funds for a shelter damage or security deposit for an eligible township assistance applicant or household. However, the trustee may encumber money for a shelter damage or security deposit by making an agreement with a property owner who furnishes shelter for a township assistance recipient or household. The agreement must include the following:

(1) The agreement's duration, not to exceed one hundred eighty (180) days.
(2) A statement that the agreement may be renewed if both parties agree.
(3) The total value of the encumbered money, not to exceed the value of one (1) month's rental payment.
(4) A statement signed by both the trustee and the property

owner attesting to the condition of the property at the time the agreement is made.

(5) A statement that encumbered money may be used to pay the cost of:

(A) verified damages, normal wear excluded, caused by the tenant township assistance recipient during the duration of the agreement; and

(B) any unpaid rental payments for which the tenant township assistance recipient is obligated.

(6) A statement that the total amount to be paid from the encumbered money may not exceed one (1) month's rental payment for the unit in question.

(g) A trustee is not required to provide shelter assistance to an otherwise eligible individual if the:

(1) individual's most recent residence was provided by the individual's parent, guardian, or foster parent; and

(2) individual, without just cause, leaves that residence for the shelter for which the individual seeks assistance.

As added by P.L.51-1996, SEC.62. Amended by P.L.73-2005, SEC.80.

IC 12-20-17

Chapter 17. Temporary Aid

IC 12-20-17-1

Investigations; temporary aid necessity

Sec. 1. If a township trustee determines by investigation that a township assistance applicant or a township assistance applicant's household requires assistance, the township trustee shall, after determining that an emergency exists, furnish to the applicant or household the temporary aid necessary for the relief of immediate suffering. However, before any further final or permanent relief is given, the township trustee shall consider whether the applicant's or household's need can be relieved by means other than an expenditure of township money.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.63; P.L.73-2005, SEC.81.

IC 12-20-17-2

Shelter; expenditure limitations; combination of resources; referral to appropriate agency; ability to contract with private agency

Sec. 2. (a) As used in this section, "shelter" means a facility that provides temporary emergency assistance.

(b) A township trustee may establish, purchase, acquire, maintain, or operate a shelter for eligible township assistance households needing temporary housing assistance.

(c) A township having a population of less than eight thousand (8,000) may not expend more than ten thousand dollars ($10,000) to implement this section without the approval of the county executive.

(d) A township having a population of at least eight thousand (8,000) may not expend more than one hundred thousand dollars ($100,000) to implement this section without the approval of the county executive.

(e) In counties where the implementation of this section can be more efficiently and expeditiously handled in units larger than a single township, a township trustee may combine resources with other townships within a county to:

(1) establish one (1) or more household shelter units; and

(2) pay a pro rata share of all administrative and other costs incidental to the maintenance and operation of each shelter unit established in subdivision (1).

IC 36-1-7-1 through IC 36-1-7-4 apply to a township electing to combine its resources with other townships under this subsection.

(f) A township trustee is not required to provide shelter to an individual who at the time assistance is requested is:

(1) under the influence of drugs or alcohol; or

(2) incapable of self-care.

The township trustee may at no cost to the township refer an individual described in this subsection to an appropriate agency or facility located in the county or in an adjoining county that has a program or charter specifically addressing the problems of substance

abuse, mental illness, or self-care.

(g) A township trustee may contract with a private agency offering a shelter program in order to comply with this section if the applicant or the applicant's household is not mandated by the private agency to participate, as a condition of eligibility, in religious services.

(h) A township trustee is not obligated to:

(1) enter into a contract with; or

(2) pay shelter costs to;

a shelter that is supported by federal or state funds.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.64; P.L.73-2005, SEC.82.

IC 12-20-17-3

Temporary relief to sick and needy persons

Sec. 3. Upon complaint that an individual within the township is:

(1) sick;

(2) in need;

(3) without necessary financial resources; and

(4) likely to suffer;

the township trustee, as administrator of township assistance, shall investigate and grant the temporary relief required.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.65; P.L.73-2005, SEC.83.

IC 12-20-17-4

Nonresidents; temporary county home commitment

Sec. 4. If an individual who is determined to be eligible for township assistance and entitled to temporary relief is in a township in which the individual does not have legal residence, the township trustee, as administrator of township assistance, may, if the trustee considers advisable, place the individual temporarily in the county home, if any, where the individual, if capable, is to be employed.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.66; P.L.73-2005, SEC.84.

IC 12-20-18

Chapter 18. Distribution of State and Federal Aid

IC 12-20-18-1

Cooperation with state and federal government in distribution of aid

Sec. 1. (a) A township trustee, as administrator of township assistance, may cooperate with the state and federal government in the furnishing of township assistance so that the township assistance is furnished adequately and economically.

(b) A township trustee, as administrator of township assistance, shall provide facilities for relief headquarters and storage and transportation of commodities for township assistance purposes as are demanded, but such cooperation shall be confined to that reasonably required under the purposes of this article.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.85.

IC 12-20-18-2

USDA surplus agricultural commodities distributions; participation

Sec. 2. (a) The township trustee, as administrator of township assistance, may participate in surplus agricultural commodities distributions provided by the United States Department of Agriculture to the state.

(b) A township trustee, as administrator of township assistance:

(1) may establish the trustee's own distribution plan; or

(2) shall participate jointly with at least one (1) other township trustee who serves as administrator of township assistance.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.67; P.L.73-2005, SEC.86.

IC 12-20-19

Chapter 19. Participation in Federal Surplus Food Programs

IC 12-20-19-1

Authorization

Sec. 1. (a) A township trustee, as administrator of township assistance, may participate in and cooperate with the establishment and use of federal surplus commodities food, cotton, or other stamp plans created by a governmental agency of the United States in the purchase of food, clothing, or other township assistance supplies.

(b) If a township trustee's cooperation and participation in federal surplus commodities or stamp programs can be more efficiently and expeditiously handled in a larger unit than a single township, a group of township trustees, as administrators of township assistance, may do the following:

(1) Establish a single stamp issuing agency.

(2) Appoint and designate an issuing agent to issue stamps to recipients entitled to participate in the programs.

(3) Pay each township's pro rata share of all administrative and other costs incident to the maintenance and operation of the issuing office.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.87.

IC 12-20-19-2

Revolving fund

Sec. 2. To establish a revolving fund necessary for a township trustee's participation or administration, the township trustees, as administrators of township assistance, may make claims in the same manner as other township assistance claims are paid by the township.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.68; P.L.73-2005, SEC.88.

IC 12-20-19-3

Issuing officer; oath of office; bond

Sec. 3. (a) The issuing officer employed by a township trustee must take an oath for the faithful performance of the duties of the issuing officer's office.

(b) The issuing officer must furnish a bond:

(1) payable to the state; and

(2) conditioned upon the faithful performance of the issuing officer's duties and accurate accounting of all money in the issuing officer's possession.

(c) The bond required by subsection (b) must be in a penal sum of not less than the total amount of the revolving money coming into the issuing officer's possession from all trustees.

(d) The cost of the bond required by subsection (b) shall be paid by county warrant and charged by the county auditor pro rata against the township assistance accounts of the townships participating in the establishment of the revolving or other fund for the purposes set forth in this chapter.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.69; P.L.73-2005, SEC.89.

IC 12-20-19-4
Orders or stamps for food and clothing; issuance

Sec. 4. (a) The trustees participating in or cooperating with programs under this chapter may issue to eligible recipients orders or stamps for food, clothing, or other items covered under the federal plan.

(b) An order issued under this section must set forth the quantities and prices of each item ordered and the total amount of the order or stamps.

(c) A recipient who receives an order or stamps under this section may present the order or stamps to the issuing officer and is entitled to have issued to the recipient food, cotton, or other vouchers for use in the purchase of township assistance supplies.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.70; P.L.73-2005, SEC.90.

IC 12-20-19-5
Higher education award; effect upon eligibility for federal surplus food program assistance

Sec. 5. If an individual receives a state or federal higher education award that is paid directly to an approved postsecondary educational institution for the individual's benefit:

(1) the individual is not required to report the award as income or as a resource of the individual when applying for assistance through federal surplus food programs; and

(2) the award may not be considered as income or a resource of the individual in determining eligibility for assistance through federal surplus food programs.

As added by P.L.2-1992, SEC.14. Amended by P.L.2-2007, SEC.162.

IC 12-20-20

Chapter 20. Payment of Township Assistance Claims

IC 12-20-20-1

Certification, audit, and payment of claim

Sec. 1. (a) If a township trustee, as administrator of township assistance, grants township assistance to an indigent individual or to any other person or agency on a township assistance order as provided by law or obligates the township for an item properly payable from township assistance money, the claim against the township must be:

(1) itemized and sworn to as provided by law;

(2) accompanied by the original township assistance order, which must be itemized and signed; and

(3) checked with the records of the township trustee, as administrator of township assistance, and audited and certified by the township trustee.

(b) The township trustee shall pay claims against the township for township assistance in the same manner that other claims against the township are paid. The township trustee, when authorized to pay claims directly to vendors, shall pay a claim within forty-five (45) days. The township trustee shall pay the claim from:

(1) any balance standing to the credit of the township against which the claim is filed; or

(2) from any other available fund from which advancements can be made to the township for that purpose.

As added by P.L.2-1992, SEC.14. Amended by P.L.145-1993, SEC.1; P.L.101-2000, SEC.1; P.L.73-2005, SEC.91.

IC 12-20-20-2

Borrowing to pay claims

Sec. 2. (a) If money is not available for the payment of township assistance claims under section 1 of this chapter, the township board shall appeal to borrow money under IC 12-20-24.

(b) This subsection does not apply to a county having a consolidated city. If the township board does not appeal to borrow money under IC 12-20-24 or if an appeal fails, the board of commissioners may borrow money or otherwise provide the money. If the county commissioners determine to borrow the money or otherwise provide the money, the county fiscal body shall promptly pass necessary ordinances and make the necessary appropriations to enable this to be done, after determining whether to borrow money by any of the following:

(1) A temporary loan against taxes levied and in the process of collection.

(2) The sale of county township assistance bonds or other county obligations.

(3) Any other lawful method of obtaining money for the payment of township assistance claims.

(c) This subsection applies only to a county having a consolidated

city. If a township board does not appeal to borrow money under IC 12-20-24 or if an appeal fails, the board of commissioners shall borrow money or otherwise provide the money. The county fiscal body shall promptly pass necessary ordinances and make the necessary appropriations to enable this to be done, after determining whether to borrow money by any of the following methods:

(1) A temporary loan against taxes levied and in the process of collection.

(2) The sale of county township assistance bonds or other county obligations.

(3) Any other lawful method of obtaining money for the payment of township assistance claims.

As added by P.L.2-1992, SEC.14. Amended by P.L.145-1993, SEC.2; P.L.101-2000, SEC.2; P.L.73-2005, SEC.92.

IC 12-20-20-3
Repealed

(Repealed by P.L.101-2000, SEC.11.)

IC 12-20-20-4
Purchase and payment forms

Sec. 4. The state board of accounts shall prescribe the forms for the purchase of and payment for township assistance items.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.93.

IC 12-20-20-5
Water services payment

Sec. 5. Payment for water services must be in accordance with IC 12-20-16-3.

As added by P.L.2-1992, SEC.14.

IC 12-20-21

Chapter 21. Financing of Township Assistance

IC 12-20-21-1

Repealed

(Repealed by P.L.101-2000, SEC.11.)

IC 12-20-21-2

Commingling of funds

Sec. 2. Township assistance money raised by townships may not be commingled.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.94; P.L.169-2006, SEC.35.

IC 12-20-21-3

Tax levy; retention of funds; reversion

Sec. 3. (a) Except as provided in section 3.2 of this chapter, a township trustee and township board may levy a specific tax for the purpose of providing money for the payment of township assistance expenses in the following year. The tax may be sufficient to meet the entire requirement of the township in the following year or the part that is determined to be proper.

(b) Except as provided in section 3.2 of this chapter, if a tax levy is established under subsection (a), all proceeds derived from the tax levy shall be distributed to the township at the same time and in the same manner as proceeds from other property tax levies are distributed to the township. The proceeds of the tax levy shall be held by the township in its township assistance account free and available for the payment of township assistance obligations of the township. The funds are continuing funds and do not revert to any other fund at the end of the year.

As added by P.L.2-1992, SEC.14. Amended by P.L.145-1993, SEC.4; P.L.101-2000, SEC.3; P.L.73-2005, SEC.95; P.L.234-2013, SEC.8.

IC 12-20-21-3.2

Separate township assistance benefits levy and township assistance administration levy for certain townships

Sec. 3.2. (a) This section applies only to a township if the township's township assistance property tax rate (as defined in IC 6-1.1-20.3-6.7(a)) for property taxes first due and payable in 2013 or any year thereafter is more than the result of:

(1) the statewide average township assistance property tax rate (as determined by the department of local government finance) for property taxes first due and payable in that same year; multiplied by

(2) twelve (12).

(b) Notwithstanding any other law, beginning with property taxes first due and payable in the year following the year in which this section first applies to the township, as provided in subsection (a), the department of local government finance shall do the following in the

case of a township subject to this section:

(1) Remove the township assistance property tax levy from the maximum permissible ad valorem property tax levy for the township's general fund.

(2) Require the township to separate its township assistance property tax levy into the following two (2) property tax levies:

(A) A township assistance benefits property tax levy.

(B) A township assistance administration property tax levy.

(3) Calculate a separate maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for each of the township's property tax levies described in subdivision (2).

(c) The department of local government finance shall, for property taxes first due and payable in the year following the year in which this section first applies to the township, as provided in subsection (a), determine the initial maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for a township's township assistance administration property tax levy.

(d) The initial maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for a township's township assistance benefits property tax levy for property taxes first due and payable in the year following the year in which this section first applies to the township, as provided in subsection (a), is equal to the amount determined in the following STEPS:

STEP ONE: Determine the result of:

(A) the township's township assistance property tax levy for property taxes first due and payable in the year in which this section first applies to the township, as provided in subsection (a); minus

(B) the result determined by the department of local government finance for the township under subsection (c).

STEP TWO: Multiply the STEP ONE result by the assessed value growth quotient under IC 6-1.1-18.5-2 that is applicable to the township for property taxes first due and payable in the year following the year in which this section first applies to the township, as provided in subsection (a).

(e) The maximum permissible ad valorem property tax levy for the township's general fund shall be adjusted as determined in the following STEPS:

STEP ONE: Multiply:

(A) the township's township assistance property tax levy for property taxes first due and payable in the year in which this section first applies to the township, as provided in subsection (a); by

(B) the assessed value growth quotient under IC 6-1.1-18.5-2 that is applicable to the township for property taxes first due and payable in the year following the year in which this section first applies to the township, as provided in subsection (a).

STEP TWO: Subtract the STEP ONE result from the maximum permissible ad valorem property tax levy that would otherwise

apply for the township's general fund.

The adjustment under this subsection applies beginning with property taxes first due and payable in the year following the year in which this section first applies to the township, as provided in subsection (a).

(f) The property taxes collected from a township's township assistance administration property tax levy:

(1) shall be deposited into a separate fund;

(2) shall be used only for the administration of township assistance within the township; and

(3) shall not be used to pay township assistance to any person.

(g) The property taxes collected from a township's township assistance benefits property tax levy:

(1) shall be deposited into a separate fund;

(2) shall be used only for the purpose of paying township assistance to eligible recipients; and

(3) shall not be used to pay for the administration of township assistance within the township.

(h) Except as provided in this section, references in the Indiana Code to a township assistance property tax levy shall, in the case of a township subject to this section, be considered a reference to the township's township assistance benefits property tax levy and the township's township assistance administration property tax levy.

As added by P.L.234-2013, SEC.9.

IC 12-20-21-4
Repealed

(Repealed by P.L.169-2006, SEC.84.)

IC 12-20-21-5
Repealed

(Repealed by P.L.262-2003, SEC.9.)

IC 12-20-22

Chapter 22. Township Assistance Budgets and Appropriation of Township Assistance Money

IC 12-20-22-1

Additional appropriations

Sec. 1. (a) A township trustee may not, acting as administrator of township assistance, disburse any money or incur any obligation in the furnishing of township assistance in excess of the amount appropriated for that purpose.

(b) Appropriations for township assistance purposes must be made in the manner provided by law for appropriations for other township purposes.

(c) When preparing the annual budget for a township, the township trustee and the township board shall set out in the budget the amount of expenditures estimated to be reasonably required for current township assistance in the following calendar year. If the amount provided for township assistance in the annual budget as finally adopted and approved is insufficient to meet the requirements for that purpose, additional appropriations may be made in the manner provided by law for the making of additional appropriations by townships for other purposes.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.97.

IC 12-20-22-2

Certified copies of record; payment

Sec. 2. (a) Copies of all township budgets for current township assistance shall, as finally adopted and approved, be placed on file in the office of the county auditor. If an additional appropriation for current township assistance is made by a township:

(1) a certified copy of the action of the township board in making the additional appropriation; and

(2) a certified copy of the order of the department approving the additional appropriation;

shall be filed in the office of the county auditor.

(b) A township trustee may not pay any township assistance order or claim in excess of the amount appropriated for current township assistance purposes, except as otherwise provided by law.

As added by P.L.2-1992, SEC.14. Amended by P.L.145-1993, SEC.6; P.L.101-2000, SEC.6; P.L.90-2002, SEC.348; P.L.73-2005, SEC.98.

IC 12-20-22-3

Uniform rules and forms

Sec. 3. The state board of accounts shall adopt uniform forms and necessary rules under this chapter to make the method of budgeting and appropriating township assistance money uniform in all townships.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.99.

IC 12-20-22-4

Repealed

(Repealed by P.L.101-2000, SEC.11.)

IC 12-20-23
Repealed

(Repealed by P.L.169-2006, SEC.84.)

IC 12-20-24

Chapter 24. Township Borrowing for Township Assistance

IC 12-20-24-1

Appeal for right to borrow; showing

Sec. 1. (a) In addition to the other methods of township assistance financing provided by this article, if a township trustee for a township determines that a particular township's township assistance account will be exhausted before the end of a fiscal year, the township trustee shall notify the township board of that determination.

(b) After receiving notice under subsection (a) that a township's township assistance account will be exhausted before the end of a fiscal year, the township board shall appeal to the department of local government finance for the right to borrow money on a short term basis to fund township assistance services in the township. In the appeal the township board must do the following:

(1) Show that the amount of money contained in the township assistance account will not be sufficient to fund services required to be provided within the township by this article.

(2) Show the amount of money that the board estimates will be needed to fund the deficit.

(3) Indicate a period, not to exceed five (5) years, during which the township would repay the loan.

As added by P.L.2-1992, SEC.14. Amended by P.L.145-1993, SEC.8; P.L.101-2000, SEC.8; P.L.73-2005, SEC.108; P.L.169-2006, SEC.36.

IC 12-20-24-2

Repealed

(Repealed by P.L.169-2006, SEC.84.)

IC 12-20-24-3

Repealed

(Repealed by P.L.169-2006, SEC.84.)

IC 12-20-24-4

Repealed

(Repealed by P.L.169-2006, SEC.84.)

IC 12-20-24-5

Decision of department

Sec. 5. (a) If upon appeal under section 1 of this chapter the department determines that a township board should be allowed to borrow money under this chapter, the department shall order the township trustee to borrow the money from a financial institution on behalf of the township board and to deposit the money borrowed in the township's township assistance account.

(b) If upon appeal under section 1 of this chapter the department determines that the township board should not be allowed to borrow money, the board may not do so for that year.

As added by P.L.2-1992, SEC.14. Amended by P.L.101-2000, SEC.9; P.L.90-2002, SEC.352; P.L.73-2005, SEC.111; P.L.169-2006, SEC.37.

IC 12-20-24-6
Approval of loan; repayment period

Sec. 6. If a loan is approved under IC 12-2-4.5 (before its repeal) or this chapter, the board of commissioners or county council (for a loan approved by the board of commissioners or county council before July 1, 2006) or the department shall determine the period during which the township shall repay the loan. However, the period may not exceed five (5) years.

As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.353; P.L.169-2006, SEC.38.

IC 12-20-24-7
Approval restrictions

Sec. 7. A board of commissioners or a county council (for a loan approved by the board of commissioners or county council before July 1, 2006) or the department may not do any of the following:

(1) Approve a request to borrow money made under IC 12-2-4.5 (before its repeal) or this chapter unless the body determines that the township's township assistance account will be exhausted before the account can fund all township obligations incurred under this article.

(2) Recommend or approve a loan that will exceed the estimated amount of the deficit.

As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.354; P.L.73-2005, SEC.112; P.L.169-2006, SEC.39.

IC 12-20-24-8
Tax levy

Sec. 8. (a) If a township board:

(1) appeals before August 1 for permission to borrow money;

(2) receives permission from:

(A) the board of commissioners or the county council, before July 1, 2006; or

(B) the department;

to borrow money before November 1 of that year; and

(3) borrows money under this chapter;

the township board shall levy a property tax beginning in the next succeeding year and continuing for the term of the loan in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year.

(b) If a township board:

(1) appeals after August 1 for permission to borrow money;

(2) receives permission from:

(A) the board of commissioners or the county council, before July 1, 2006; or

(B) the department;

to borrow money; and

(3) borrows money in the year of the appeal under this chapter; the township board shall levy a property tax beginning in the second succeeding year and continuing for the term of the loan in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year.

(c) The property taxes levied under this section shall be retained by the township trustee and applied by the township trustee to retire the debt.

As added by P.L.2-1992, SEC.14. Amended by P.L.101-2000, SEC.10; P.L.90-2002, SEC.355; P.L.169-2006, SEC.40.

IC 12-20-24-9

Additional appropriation

Sec. 9. A township board must make an additional appropriation before money borrowed under IC 12-2-4.5 (before its repeal) or this chapter may be spent.

As added by P.L.2-1992, SEC.14.

IC 12-20-25

Chapter 25. Township Assistance in Distressed Townships

IC 12-20-25-0.3

Township poor relief control board; change of name; transfer of rules, powers, duties, assets, and liabilities; treatment of references to; members

Sec. 0.3. (a) The township assistance control board is a continuation of the township poor relief control board (renamed by P.L.73-2005).

(b) The rules adopted by the township poor relief control board shall be treated, after June 30, 2005, as rules of the township assistance control board.

(c) On July 1, 2005, all powers, duties, assets, and liabilities of the township poor relief control board are transferred to the township assistance control board.

(d) After June 30, 2005, a reference to the township poor relief control board shall be treated as a reference to the township assistance control board.

(e) A member of the township poor relief control board appointed under section 29 of this chapter (before its amendment by P.L.73-2005) shall continue to serve as a member of the township assistance control board established by section 29 of this chapter, as amended by P.L.73-2005, until the end of the term for which the member was appointed.

As added by P.L.220-2011, SEC.271.

IC 12-20-25-0.4

Transfer of money from county income tax poor relief control fund, distressed township supplemental poor relief fund

Sec. 0.4. (a) Notwithstanding the amendment of section 40 of this chapter by P.L.73-2005, funds that are in the county income tax poor relief control fund on June 30, 2005, are transferred to the county income tax township assistance control fund established by section 40 of this chapter, as amended by P.L.73-2005.

(b) Notwithstanding the amendment of section 51 of this chapter by P.L.73-2005, funds that are in the distressed township supplemental poor relief fund on June 30, 2005, are transferred to the distressed township supplemental township assistance fund established by section 51 of this chapter as amended by P.L.73-2005.

As added by P.L.220-2011, SEC.272.

IC 12-20-25-1

Application of chapter

Sec. 1. This chapter applies to each county having at least one (1) distressed township.

As added by P.L.2-1992, SEC.14.

IC 12-20-25-2

"Control board" defined

Sec. 2. As used in this chapter, "control board" refers to the township assistance control board.
As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.113.

IC 12-20-25-3
"Creditor" defined

Sec. 3. As used in this chapter, "creditor" means a person that has a claim against the township resulting from providing assistance to an indigent individual as authorized by the township trustee under this article.
As added by P.L.2-1992, SEC.14.

IC 12-20-25-4
"Distressed township" defined

Sec. 4. As used in this chapter, "distressed township" means:

(1) a township that:

(A) has a valid township assistance claim that the county auditor cannot pay within thirty (30) days after the claim is approved for payment under IC 12-2-1-31 (before its repeal) or IC 12-20-20;

(B) has township assistance expenditures during a year that exceed the year's township assistance revenues, excluding any advances from the state and revenues from short term loans from the county or a financial institution or advances from the county from the proceeds of bonds, made or issued under:

(i) this article; or

(ii) IC 12-2-1, IC 12-2-4.5, or IC 12-2-5 (before the repeal of those statutes);

(C) has imposed and dedicated to township assistance at least ninety percent (90%) of the maximum permissible ad valorem property tax levy permitted for all of the township's money under IC 6-1.1-18.5; and

(D) has outstanding indebtedness that exceeds one and eight-tenths percent (1.8%) of the township's adjusted value of taxable property in the district as determined under IC 36-1-15; or

(2) a township that:

(A) has been a controlled township during any part of the preceding five (5) years;

(B) has a valid township assistance claim that the county auditor cannot pay within thirty (30) days after the claim is approved for payment under IC 12-2-1-31 (before its repeal) or IC 12-20-20; and

(C) uses advances from the county from proceeds of bonds issued under IC 12-2-1 (before its repeal) or this article.

As added by P.L.2-1992, SEC.14. Amended by P.L.6-1997, SEC.147; P.L.73-2005, SEC.114.

IC 12-20-25-5
"Indebtedness" defined

Sec. 5. As used in this chapter, "indebtedness" includes unpaid township assistance claims, outstanding bonds, and advancements from the county to the township for any purpose, if the advancement is not repayable in the year the advancement is made.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.115.

IC 12-20-25-6
Notification of township board of distressed status

Sec. 6. The township trustee shall immediately notify the township board and the county fiscal body when a township becomes a distressed township.

As added by P.L.2-1992, SEC.14.

IC 12-20-25-7
Action upon notice of township distress; certification to governor

Sec. 7. (a) Upon receipt of notice from the trustee that the township has become a distressed township, the county fiscal body shall do the following:

(1) Determine whether the township is a distressed township.

(2) If the township is determined to be a distressed township, certify to the governor that the township is a distressed township.

(b) If:

(1) the trustee fails to notify the county fiscal body when the township becomes a distressed township; or

(2) the county fiscal body fails to certify to the governor that the township is a distressed township;

any taxpayer of the township may notify the department, which shall make the determination required by subsection (a)(1) and, if appropriate, make the certification to the governor required by subsection (a)(2).

As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.356.

IC 12-20-25-8
Management committee; membership

Sec. 8. Upon receipt of a certification under section 7 of this chapter, the governor shall appoint a four (4) member management committee to assume the township trustee's duties as administrator of township assistance. The committee must consist of one (1) representative from each of the following:

(1) The budget agency. This member serves as chairperson.

(2) The state board of accounts.

(3) The department.

(4) The division of family resources.

As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.357; P.L.73-2005, SEC.116; P.L.145-2006, SEC.120.

IC 12-20-25-9
Service at will of governor

Sec. 9. The management committee serves at the pleasure of the governor.

As added by P.L.2-1992, SEC.14.

IC 12-20-25-10
Township trustee's duties to advise and assist

Sec. 10. The township trustee shall serve as an advisor to the management committee and assist the management committee in carrying out the committee's duties under this chapter.

As added by P.L.2-1992, SEC.14.

IC 12-20-25-11
Committee administration of township trustee's office

Sec. 11. The management committee shall administer the township trustee's office until the committee has completed a financial and management evaluation of the trustee's office and reported the committee's findings to the control board under section 32 of this chapter.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.117.

IC 12-20-25-12
Township assistance control board

Sec. 12. At the time the governor appoints the members of the management committee, the governor shall also appoint a control board for the distressed township under section 29 of this chapter.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.118.

IC 12-20-25-13
Distressed township as controlled township; payment of township assistance claims and committee operating costs from supplemental township assistance fund

Sec. 13. (a) When the management committee is appointed, the distressed township is a controlled township until the requirements of section 41 of this chapter are met.

(b) During the period that the management committee is in control of the township trustee's office, the payment of township assistance claims and the operating costs of the management committee that:

(1) are incurred during the period the management committee is in control of the township trustee's office; and

(2) exceed the revenue derived from the distressed township's township assistance property tax levy;

shall be made from support to the county from the distressed township supplemental township assistance fund established under section 51 of this chapter.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.119.

IC 12-20-25-14
Authority of township trustee

Sec. 14. A township trustee has no authority concerning township assistance in a controlled township. However, after the management committee has completed the evaluation of the trustee's office and reported the committee's findings to the control board as required by section 32 of this chapter, the township trustee shall resume the trustee's duties concerning township assistance, subject to the supervision and control of the control board.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.120.

IC 12-20-25-15
Duties of committee; rules

Sec. 15. (a) The management committee appointed under section 8 of this chapter shall do the following:

(1) Conduct or have conducted a financial and compliance audit of the internal operations of the trustee's office.

(2) Conduct or have conducted, to the extent practicable, a financial and compliance audit of each township assistance recipient who received assistance from the township trustee over the five (5) years immediately preceding the assumption of control of the trustee's office.

(3) Conduct or have conducted an economy and efficiency audit of the internal operations of the trustee's office, which must determine the following:

(A) If the trustee's office is managing and utilizing the resources of the office, including personnel, property, and office space, economically and efficiently.

(B) If there are any inefficiencies or uneconomical practices and if so the causes.

(C) If the trustee's office has complied with statutes and rules concerning matters of economy and efficiency.

(4) Establish standards for the following:

(A) Eligibility for township assistance.

(B) Payments for township assistance claims.

(C) Contracts and payments on contracts for township assistance goods or services.

(D) Leases or rental agreements and payments on leases or rental agreements for facilities that relate to the provision of township assistance.

(E) Capital expenditures relating to township assistance.

(5) Implement a mandatory employment or workfare program under IC 12-20-10 or IC 12-20-11 or require that a township assistance recipient participate in a training program under IC 12-20-12.

(b) Notwithstanding IC 36-9, the management committee is not required to solicit bids before entering into a contract to have an audit conducted under this section.

(c) If the control board has adopted rules concerning the standards

listed in subsection (a)(4), the management committee's rules must be consistent with the control board's rules.
As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.121.

IC 12-20-25-16
Litigation powers and duties

Sec. 16. The management committee may be sued in the committee's own name. The management committee has the power to sue in the committee's own name and to defend an appeal from a determination made under section 28 of this chapter.
As added by P.L.2-1992, SEC.14.

IC 12-20-25-17
Committee powers regarding employees

Sec. 17. (a) The management committee may do the following:

(1) Employ, promote, and remove employees of the trustee's office who perform township assistance duties as needed and, with the approval of the governor, fix their compensation.

(2) Retain certified public accountants and other necessary professionals from whom the committee may obtain audits, reports, and other assistance necessary to perform the committee's duties.

(b) The management committee may only dismiss a township employee for just cause or with the approval of the township trustee. Just cause includes removal for personnel reductions made in accordance with IC 12-20-4.
As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.122.

IC 12-20-25-18
Adoption of rules

Sec. 18. (a) The management committee and the control board shall adopt rules as required by sections 15 and 30 of this chapter. The management committee and the control board may each adopt rules to administer the township assistance program in a controlled township. IC 4-22-2 does not apply to the rules. Rules adopted under this section must be:

(1) written;

(2) signed by the governor; and

(3) published in the Indiana Register not more than sixty (60) days after the rules are signed by the governor.

(b) Notwithstanding any other provision of this article, an individual may not receive township assistance from a controlled township until the applicant for assistance qualifies under eligibility standards established under rules adopted under subsection (a).
As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.123.

IC 12-20-25-19

Registration for work at department of workforce development prerequisite to assistance

Sec. 19. (a) Notwithstanding any other provision of this article, an unemployed individual may not receive township assistance in a controlled township until the individual has registered for work at an office of the department of workforce development and has provided proof that the individual is registered. This subsection does not apply to an individual who:

(1) is not physically able to perform work;

(2) is less than eighteen (18) years of age or at least sixty-five (65) years of age; or

(3) is needed to care for another individual because of the other individual's age or physical condition.

(b) An unemployed individual who has registered under subsection (a) may not receive township assistance in a controlled township on a continuing basis unless the individual reports to the employment office and provides proof that the individual has reported with the frequency and in the manner prescribed by either the management committee or the control board.

(c) Subject to subsection (a), if the management committee or the control board finds that an individual has failed to:

(1) apply for available, suitable work when directed by the commissioner of workforce development, the commissioner's deputy, or an authorized representative of the state;

(2) accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner of workforce development, the commissioner's deputy, or an authorized representative of the state; or

(3) return to the individual's customary self-employment when directed by the commissioner of workforce development or the commissioner's deputy;

the individual may not receive township assistance for six (6) months after the date of the management committee's or control board's finding.

As added by P.L.2-1992, SEC.14. Amended by P.L.21-1995, SEC.16; P.L.73-2005, SEC.124.

IC 12-20-25-20

Case numbers

Sec. 20. (a) The management committee shall assign a case number to each applicant who is qualified under section 18 of this chapter for township assistance from the township.

(b) To the extent allowed by law, an individual's case number must be the individual's Social Security number.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.125.

IC 12-20-25-21

Denial of claims; grounds

Sec. 21. Notwithstanding IC 12-20-20, a claim may not be approved if the township assistance is provided during the period that the township is a controlled township and:

(1) the township assistance claim is not presented for payment not more than sixty (60) days after the date the township assistance was provided;

(2) the township assistance recipient cannot be identified;

(3) the township assistance provided cannot be substantiated in detail; or

(4) the date the township assistance was provided cannot be established.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.126.

IC 12-20-25-22
Payment of unpaid claims of creditors

Sec. 22. (a) Sections 22 through 28 of this chapter create an exclusive administrative remedy for the payment of unpaid claims of creditors for the following goods and services that were provided under the authority of IC 12-2-1 (before its repeal) or this article before the township became a controlled township:

(1) Food, including prepared food and special dietary food.

(2) Clothing.

(3) Shelter.

(4) Water, gas, and electric services for lighting, heating, and cooking.

(5) Household supplies, including first aid and medical supplies for injury and illness.

(6) Medical and surgical attendance.

(7) Nursing care prescribed by a physician.

(8) School lunches.

(9) Transportation to allow a township assistance recipient to seek or accept employment.

(10) Feed for livestock.

(11) Funeral and cemetery expenses.

(12) Any other goods or services provided under this article.

(b) A creditor that has a claim described in subsection (a) against the township trustee must file a statement of claims with the management committee not more than ninety (90) days after notice is given under section 24 or 25 of this chapter.

(c) The statement of claims must itemize each claim the creditor has against the township. The state board of accounts shall prescribe the form of the statement of claims. The state board of accounts shall establish standards for the submission of supporting documentation for claims.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.127.

IC 12-20-25-23
Statement of claim; filing limitations

Sec. 23. The claim of a creditor is void if the creditor fails to file a statement of claims with the management committee not more than ninety (90) days after notice is given under section 24 or 25 of this chapter.
As added by P.L.2-1992, SEC.14.

IC 12-20-25-24
Information regarding creditors' claims; notice to creditors

Sec. 24. (a) The county auditor shall provide the management committee with the following:

(1) The name, address, and voucher number of each creditor whose claims have not been paid.

(2) An itemization of each creditor's claims against the distressed township.

(b) The management committee shall send a notice by first class mail to the creditors identified by the county auditor. The notice must do the following:

(1) Inform the creditor that the creditor must file a statement of claims with the management committee not more than ninety (90) days after the mailing of the notice or the claim is void.

(2) Include a statement of claims form.

(3) Identify the required supporting documentation that must be filed along with the statement of claims.

As added by P.L.2-1992, SEC.14.

IC 12-20-25-25
Notice by publication

Sec. 25. In addition to the notice required in section 24 of this chapter, the management committee shall publish a notice to all persons claiming to be creditors in two (2) newspapers of general circulation in the county. If there is only one (1) newspaper of general circulation in the county, publication in that newspaper is sufficient notice to the persons claiming to be creditors.
As added by P.L.2-1992, SEC.14.

IC 12-20-25-26
Review and evaluation of claims

Sec. 26. (a) Upon receipt of a statement of claims from a creditor, the management committee shall review and evaluate the validity and reasonableness of each claim. The management committee is not required to conduct a hearing under IC 4-21.5-3.

(b) The management committee's evaluation of each claim shall be made without determining whether the claim is a valid township debt under Article 13, Section 1 of the Constitution of the State of Indiana.
As added by P.L.2-1992, SEC.14.

IC 12-20-25-27
Payment of claims; invalid and unreasonable claims

Sec. 27. (a) Except as provided in section 52(3) of this chapter, if the management committee finds a claim to be valid and reasonable

in whole or in part, the amount of the claim found to be valid and reasonable shall be paid from the distressed township's township assistance account as provided in section 40 of this chapter. If the management committee finds that a claim is invalid in whole or in part, the amount of the claim found to be invalid is void. The management committee shall mail a notice of the committee's determination to the creditor not more than ten (10) days after the determination is made. The notice must include a statement of the reasons for the determination.

(b) If the management committee finds that a claim is not reasonable, the management committee shall mail a notice of the finding to the creditor and shall attempt to negotiate a reasonable settlement with the creditor for the amount of the claim. If the management committee attempts to negotiate with the creditor and determines that it is not possible to reach a reasonable settlement of the claim not more than sixty (60) days after the notice was mailed, the management committee shall determine the amount of the claim that is reasonable. The management committee shall mail a notice of the committee's determination to the creditor not more than ten (10) days after the determination is made. The notice must include a statement of the reasons for the determination.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.128.

IC 12-20-25-28

Determination of validity and reasonableness of claim; finality; appeal

Sec. 28. (a) A determination of the management committee concerning the validity and reasonableness of a claim is a final administrative determination.

(b) A creditor aggrieved by a final determination of the management committee may appeal the determination by filing a petition with the circuit or superior court of the county in which the creditor resides or in the county in which the distressed township is located. The petition must be filed not more than thirty (30) days following the date of the management committee's determination. The court shall try the cause de novo. Except as provided in section 52(3) of this chapter, a final court judgment that orders a payment to be made to a creditor under this subsection may be collected upon and paid from the distressed township's township assistance account as provided in section 40 of this chapter. An action brought under this section is governed by IC 34-13-5, except that a change of venue is governed by the Indiana Rules of Trial Procedure rather than IC 34-13-5-4.

(c) A claim under this article that is pending in court at the time the township becomes a distressed township is stayed and the claimant must file the claim with the management committee as provided in this chapter. A claimant who has a final court judgment on a claim under this article before the township becomes a distressed township may proceed to collect on that judgment as provided by

law.

(d) An action under this section is subject to the defense that the claim may violate Article 13, Section 1 of the Constitution of the State of Indiana.

As added by P.L.2-1992, SEC.14. Amended by P.L.1-1998, SEC.104; P.L.73-2005, SEC.129.

IC 12-20-25-29

Township assistance control board; membership; salaries

Sec. 29. (a) A township assistance control board is established for each distressed township. The governor shall appoint the following members to the control board:

(1) The budget director or the director's designee, who shall serve as the chairman of the board.

(2) One (1) representative of the state board of accounts.

(3) One (1) representative of the department.

(4) One (1) representative of the division of family resources.

(5) One (1) elected public official of the county.

(6) One (1) township trustee.

(7) One (1) individual who:

(A) resides in the county or is employed in the county by an employer paying taxes in the county; and

(B) is or agrees to become familiar with township assistance.

(8) The township trustee of the distressed township, who shall serve as a nonvoting ex officio member of the control board.

(b) The members of the control board serve at the pleasure of the governor.

(c) Each member of the board who is not a state employee or an elected official is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.358; P.L.73-2005, SEC.130; P.L.145-2006, SEC.121.

IC 12-20-25-30

Powers and duties of control board

Sec. 30. (a) The control board shall supervise the township trustee in the administration of township assistance. The control board may appoint one (1) of the board's members to monitor the trustee's compliance with this chapter and to report discrepancies to the control board. The control board may require the board's approval of an expenditure of more than five hundred dollars ($500).

(b) Notwithstanding IC 36-6-6-11, the control board shall review and may reduce or increase the township's budget and proposed tax levy to be advertised by the county auditor. If the control board finds that there will be insufficient revenues available under this chapter for the township to pay valid township assistance claims, the control

board may consent to proposed borrowing for township assistance under IC 12-20-24.

(c) The control board may approve the number, pay, and duties of employees who are employed for the distribution and administration of the distressed township's township assistance program.

(d) The control board may require the township trustee to submit reports on the amounts of township assistance by categories, including the types of goods or services furnished and the vendors who supplied the goods or services.

(e) The control board:

(1) shall operate the employment program implemented by the management committee under section 15(a)(5) of this chapter; and

(2) may require that a township assistance recipient participate in a training program under IC 12-20-12-1.

(f) The control board shall establish income eligibility standards for township assistance, subject to the requirements of section 18 of this chapter.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.131; P.L.169-2006, SEC.41.

IC 12-20-25-31

Distribution rules; requirements

Sec. 31. (a) The control board may adopt rules concerning the distribution of township assistance designed to reduce the cost and improve the delivery of township assistance. IC 4-22-2 does not apply to the rules. The rules may include provisions governing the following:

(1) The minimum quality of goods and services required to be provided by township assistance vendors.

(2) The rate of reimbursement to be provided to vendors of goods and services under the township assistance program.

(3) The types of assistance that are to be provided to township assistance recipients.

(4) Competitive bidding requirements for purchases of goods and services for township assistance recipients, other than food, other perishable products, and goods or services needed on an emergency basis.

(5) The time within which providers of township assistance are to present claims for payment, which may not exceed sixty (60) days from the date the township assistance was provided.

(6) The purchase of goods and services to meet the emergency needs of township assistance applicants without competitive bids.

(b) If rules described in subsection (a)(4) are adopted, the rules must require that:

(1) purchases may be made only after bids have been solicited; and

(2) the contract for furnishing goods or services must be awarded to the lowest and best responsible and responsive

bidder or to more than one (1) bidder if the selection of more than one (1) bidder is appropriate to provide the necessary goods or services.

(c) If practicable and prudent, township assistance purchases should be made from local vendors.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.132.

IC 12-20-25-32

Report; financial plan recommendation

Sec. 32. (a) As soon as the management committee has completed the financial, compliance, economy, and efficiency audits required by section 15 of this chapter, the management committee shall make a report to the control board. The report must include the following:

(1) The findings of the financial, compliance, economy, and efficiency audits.

(2) An itemization of each creditor's claims against the distressed township that were found to be valid and reasonable.

(3) An itemization of each claim that was found to be invalid.

(4) An itemization of each claim that was found to be unreasonable and on which no settlement was negotiated.

(5) A proposed operating budget for the township trustee's office.

(6) An estimate of future operating and debt service costs for township assistance.

(7) The amount of outstanding township assistance bonds issued and loans incurred by the county and advancements made by the county.

(8) The maximum permissible township assistance levy of the township under IC 6-1.1-18.5.

(b) The county fiscal body may recommend a financial plan to the management committee that ensures that future revenue increases, if necessary, come from sources other than ad valorem property taxes imposed on property within the distressed township and will accomplish the purposes set forth in section 33(a)(2) of this chapter. The financial plan may include any of the options set forth in section 34 of this chapter. The management committee shall include any submitted plan in the committee's report to the control board.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.133.

IC 12-20-25-33

Operating budget; financial plan; adoption

Sec. 33. (a) Upon receipt of the report required in section 32 of this chapter, the control board shall adopt the following:

(1) An operating budget for the trustee's office.

(2) A financial plan that will ensure that future revenue will do the following:

(A) Cover operating expenses and pay township assistance claims that are incurred during the time that the township is

a controlled township not more than thirty (30) days after the claims are presented for payment.

(B) Satisfy the outstanding valid and reasonable claims of creditors that are approved under section 27 or 28 of this chapter within three (3) years.

(C) Retire outstanding bonded indebtedness, the proceeds of which were advanced to the distressed township, and repay outstanding loans or advances made for township assistance in the distressed township within three (3) years.

(b) If the county fiscal body submits a financial plan under section 32(b) of this chapter, the control board shall adopt the fiscal body's plan if the control board finds that the plan will accomplish the purposes set forth in subsection (a)(2).

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.134.

IC 12-20-25-34

Financial plan; contents

Sec. 34. The financial plan adopted under section 33 of this chapter may include the following:

(1) The adoption in the current year of:

(A) the county adjusted gross income tax at a rate allowed by IC 6-3.5-1.1; or

(B) the county option income tax at a rate not to exceed one percent (1%);

to be distributed as provided in this chapter. The adoption of either county income tax under this chapter is in addition to the county adjusted gross income tax or the county option income tax that may already be in effect in the county.

(2) The payment of township assistance with county money.

(3) The elimination or reduction of township assistance services not required under this article.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.135.

IC 12-20-25-35

Control board report to county fiscal body; adoption or rejection of financial plan; inclusion of income tax

Sec. 35. (a) The control board shall report the following to the county fiscal body:

(1) The audit findings of the management committee.

(2) The financial plan adopted under section 33 of this chapter.

(b) Not more than thirty (30) days after notice, the county fiscal body shall adopt one (1) of the following:

(1) An ordinance adopting the financial plan adopted by the control board.

(2) An ordinance rejecting the financial plan adopted by the control board.

(c) Notwithstanding IC 6-3.5-6, if:

(1) the financial plan adopted under section 33 of this chapter

includes the county option income tax; and

(2) the fiscal body adopts an ordinance adopting the financial plan under subsection (b);

the county option income tax is imposed at the rate adopted in the financial plan. Subject to the requirements of this chapter, the county fiscal body, rather than the county income tax council, has the authority granted to a county income tax council by IC 6-3.5-6 as long as the county option income tax imposed under this chapter remains in effect.

As added by P.L.2-1992, SEC.14.

IC 12-20-25-36

Department action; transfer of funds to township assistance account

Sec. 36. (a) Notwithstanding IC 6-1.1-17, if the county fiscal body:

(1) adopts an ordinance under section 35(b)(2) of this chapter; or

(2) fails to adopt an ordinance under section 35(b) of this chapter;

the department shall reduce the county's general fund budget and increase the distressed township's township assistance account budget in an amount sufficient to satisfy the requirements of section 33(a)(2) of this chapter. The department shall notify the county auditor and county treasurer of the county general fund reduction and the county treasurer shall transfer from the county general fund to the distressed township's township assistance account the amount specified by the department.

(b) Notwithstanding IC 6-1.1-18.5, if a county is required to transfer money to a distressed township's township assistance account under subsection (a), the county may not appeal for an excessive levy under IC 6-1.1-18.5 to replace money that is transferred from the county general fund.

As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.359; P.L.73-2005, SEC.136.

IC 12-20-25-37

Adoption of proposal including income tax; notice to department of revenue; collection of tax

Sec. 37. (a) If the county fiscal body adopts an ordinance adopting the control board's financial plan as provided in section 35 of this chapter and the plan includes a proposal to adopt the county adjusted gross income tax or the county option income tax, the control board shall notify the department of state revenue of this fact.

(b) Notwithstanding IC 6-3.5-1.1 and IC 6-3.5-6, after receiving notice from the control board, the department of state revenue shall collect the tax beginning on the earlier of July 1 or January 1 immediately following the notice from the control board. Except as provided in this chapter, a county adjusted gross income tax or county option income tax imposed under this chapter shall be

administered in the same manner that other county adjusted gross income taxes or county option income taxes are administered under IC 6-3.5-1.1 or IC 6-3.5-6, whichever applies.
As added by P.L.2-1992, SEC.14.

IC 12-20-25-38
Advance of state general fund money; repayment

Sec. 38. (a) If the county fiscal body adopts an ordinance adopting the control board's financial plan as provided in section 35 of this chapter and the plan includes a proposal to adopt the county adjusted gross income tax or the county option income tax, the control board may request an advance of state general fund money in the year the county fiscal body adopts the plan and in any subsequent year in anticipation of the county adjusted gross income tax or the county option income tax revenue. However, the state, acting through the state board of finance, may not advance an amount that is greater than the amount of county adjusted gross income tax or county option income tax revenue expected to be collected within the year in which the advancement is made. The department of state revenue shall estimate and certify to the state board of finance the amount of county adjusted gross income tax or county option income tax revenue expected to be collected.

(b) If the county fiscal body adopts an ordinance adopting the control board's financial plan as provided in section 35 of this chapter and the plan includes a proposal to adopt the county adjusted gross income tax or the county option income tax, a state advance from the state general fund must be repaid before any money is distributed to the county. The treasurer of state shall withhold sufficient money from the county's county adjusted gross income tax or county option income tax account to repay the state the amount of state advances provided to the county from the state general fund. The treasurer of state shall disburse any balance in the county's account to the county, to be used as provided in section 40 of this chapter.

(c) This section does not impose liability on the state for the township assistance debts of the county.
As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.137.

IC 12-20-25-39
Deposit of tax proceeds; disbursement

Sec. 39. The proceeds of the county adjusted gross income tax or the county option income tax imposed under this chapter shall be deposited by the treasurer of state on behalf of the county into a separate county adjusted gross income tax or county option income tax account, whichever applies. The money in the account shall be disbursed as provided in section 38(b) of this chapter.
As added by P.L.2-1992, SEC.14.

IC 12-20-25-40
County income tax township assistance control fund; disbursement

priorities

Sec. 40. The county treasurer shall deposit the disbursements from the treasurer of state in a county fund to be known as the county income tax township assistance control fund. Notwithstanding IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-1.1-18.5, the county treasurer shall disburse the money in the fund in the following priority:

(1) To ensure the payment within thirty (30) days of all valid township assistance claims in the distressed township that are not covered by subdivision (3).

(2) At the end of each calendar year, to redeem any outstanding bonds issued or repay loans incurred by the county for poor relief or township assistance purposes under IC 12-2-4.5 (before its repeal), IC 12-2-5 (before its repeal), IC 12-20-23 (before its repeal), or IC 12-20-24 to the extent the proceeds of the bonds or loans were advanced to the distressed township.

(3) To pay claims approved under section 27 or 28 of this chapter (or IC 12-2-14-22 or IC 12-2-14-23 before their repeal).

(4) As provided in IC 6-3.5-6 if the county option income tax is imposed under this chapter. If the county adjusted gross income tax is imposed under this chapter, to provide property tax replacement credits for each civil taxing unit and school corporation in the county as provided in IC 6-3.5-1.1. No part of the county adjusted gross income tax revenue is considered a certified share of a governmental unit as provided in IC 6-3.5-1.1-15. In addition, the county adjusted gross income tax revenue (except for the county adjusted gross income tax revenues that are to be treated as property tax replacements under this subdivision) is in addition to and not a part of the revenue of the township for purposes of determining the township's maximum permissible property tax levy under IC 6-1.1-18.5.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.138; P.L.169-2006, SEC.42.

IC 12-20-25-41

"Advance" defined; "support" defined; termination of controlled status

Sec. 41. (a) As used in subsection (c), "advance" refers to money provided to a distressed township from the state general fund under section 38 of this chapter.

(b) As used in subsection (c), "support" refers to money provided from the distressed township supplemental township assistance fund established by section 51 of this chapter to pay township assistance claims and the operating costs of the management committee during the period the management committee is in control of the township trustee's office.

(c) The controlled status of a township under this chapter terminates at the end of a year if at that time the county, with respect to each controlled township:

(1) has repaid:

(A) all state advances provided to the county under this chapter; and

(B) state support provided to the county under this chapter if the department has reduced the county's general fund budget under section 36 of this chapter;

(2) has paid all valid township assistance claims in the distressed township, including the claims approved under section 27 or 28 of this chapter;

(3) will have sufficient money to pay, not more than thirty (30) days after a claim is submitted for payment, all valid township assistance claims in the distressed township that are expected to be submitted in the following year as determined by the control board, excluding any advances from the state, revenues from short term loans from the county or a financial institution under IC 12-2-4.5 (before its repeal) or IC 12-20-24, and proceeds from bonds issued under IC 12-2-1 (before its repeal), IC 12-2-5 (before its repeal), or this article; and

(4) has no bonds outstanding that were issued to pay for township assistance in the distressed township.

(d) Notwithstanding IC 6-3.5-1.1 and IC 6-3.5-6, if the control board finds that:

(1) the requirements of subsection (c)(1), (c)(2), and (c)(4) are satisfied; and

(2) the requirements of subsection (c)(3) cannot be satisfied because the township's maximum permissible ad valorem property tax levy provides insufficient revenue to ensure the payment of all valid township assistance claims in the distressed township that will be incurred during the year following the termination of the controlled status of the township;

the county fiscal body may dedicate to the provision of township assistance, from the county adjusted gross income tax or the county option income tax imposed as a result of adopting a financial plan under section 35 of this chapter, an amount necessary to satisfy the requirements of subsection (c)(3).

(e) If the control board finds that the income tax dedicated under subsection (d) will satisfy the requirements of subsection (c)(3), the controlled status of the township under this chapter terminates at the end of the year in which the control board makes the board's finding.

As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.360; P.L.73-2005, SEC.139.

IC 12-20-25-42

Township certified as distressed before January 1, 1988; termination of controlled status; review and approval of civil and township assistance budgets; outstanding debt

Sec. 42. (a) This section applies to a township that was certified a distressed township before January 1, 1988.

(b) The controlled status of the distressed township is terminated on July 1, 1989, if the department finds that the following conditions exist:

(1) All valid township assistance claims in the distressed township, including the claims approved under IC 12-2-14-22 (before its repeal), IC 12-2-14-23 (before its repeal), or section 27 or 28 of this chapter, have been paid, except for the following:

(A) Claims under litigation before the date of the board's finding.

(B) Obligations owed to other political subdivisions.

(2) The township has no bonds outstanding that were issued to pay for township assistance in the distressed township.

(c) Notwithstanding section 4(2) of this chapter, if a township that has had the township's distressed status terminated under subsection (b) uses advances from the county from proceeds of bonds issued under IC 12-2-1 (before its repeal) or this article to pay township assistance claims more than one (1) time in the five (5) years following the termination of the township's distressed status, the township must have the township's civil and township assistance budgets reviewed and approved by the county fiscal body in each year that a tax is levied against the property in the township to repay the advances. The decision of the county fiscal body may be appealed to the department.

(d) Notwithstanding IC 12-2-5-6 (before its repeal), IC 12-2-5-8 (before its repeal), IC 12-20-23-15 (before its repeal), and IC 12-20-23-19 (before its repeal), the aggregate principal amount of any outstanding debt that is incurred to pay township assistance claims during the five (5) years following the termination of the township's distressed status under subsection (b) and that is in excess of one-tenth percent (0.1%) of the adjusted valued of taxable property in the township as determined under IC 36-1-15 is the direct general obligation of the county.

As added by P.L.2-1992, SEC.14. Amended by P.L.6-1997, SEC.148; P.L.90-2002, SEC.361; P.L.73-2005, SEC.140; P.L.169-2006, SEC.43.

IC 12-20-25-43

Maximum ad valorem property tax insufficient to pay all township assistance claims; dedication of other revenue

Sec. 43. Notwithstanding IC 6-3.5-1.1 and IC 6-3.5-6, if:

(1) there has been a controlled township in a county;

(2) the township that has been controlled has levied the township's maximum permissible ad valorem property tax levy for township assistance;

(3) the maximum permissible ad valorem property tax levy is insufficient to ensure the payment within thirty (30) days of all valid township assistance claims in the township; and

(4) the county adjusted gross income tax or county option income tax is in effect in the county as a result of adopting a financial plan under this chapter;

the county fiscal body shall dedicate from the county adjusted gross income tax or county option income tax imposed under this chapter

an amount of revenue determined by the department to be necessary to ensure the payment within thirty (30) days of all township assistance claims in the township that has been controlled. The county fiscal body shall distribute any income tax revenues dedicated under this section before the fiscal body makes any other distributions in accordance with this chapter. Notwithstanding section 45 of this chapter, the county fiscal body may not reduce the county option income tax rate below the rate necessary to satisfy the requirements of this section.

As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.362; P.L.73-2005, SEC.141.

IC 12-20-25-44

Distribution of county adjusted gross income tax or county option income tax; rescission of tax; termination of tax

Sec. 44. (a) This section applies after the termination of the controlled status of all townships located in a county as provided in section 41 of this chapter.

(b) If the county adjusted gross income tax or county option income tax is imposed under this chapter, the tax shall be distributed as provided in section 46 of this chapter. If the county fiscal body has not dedicated county adjusted gross income tax or county option income tax revenue for township assistance under section 41 of this chapter, the county fiscal body may rescind the tax as provided in IC 6-3.5-1.1 or IC 6-3.5-6, whichever applies. If the county fiscal body has dedicated county adjusted gross income tax or county option income tax revenue for township assistance under section 41 of this chapter, the county fiscal body may rescind the tax but not until after the end of the year following the termination of the controlled status of the township.

(c) If:

(1) the county adjusted gross income tax (IC 6-3.5-1.1) or the county option income tax (IC 6-3.5-6) was in effect before the county adjusted gross income tax or the county option income tax is imposed under this chapter; and

(2) the county fiscal body did not dedicate county adjusted gross income tax or county option income tax revenue for township assistance under section 41 of this chapter;

the county adjusted gross income tax or county option income tax imposed under this chapter terminates as of the date the controlled status of all townships located in the county terminates.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.142.

IC 12-20-25-45

Adjustments to county option income tax; local homestead credit

Sec. 45. (a) Notwithstanding IC 6-3.5-6, after the termination of the controlled status of all townships located in a county as provided in section 41 of this chapter and if the county option income tax is imposed under this chapter, the county fiscal body may adopt an

ordinance to:

(1) grant a credit for homesteads that are eligible for a standard deduction under IC 6-1.1-12-37 in the county; or

(2) reduce the county option income tax rate for resident county taxpayers to a rate not less than the greater of:

(A) the minimum rate necessary to satisfy the requirements of section 43 of this chapter; or

(B) the minimum rate necessary to satisfy the requirements of sections 43 and 46(2) of this chapter if an ordinance is adopted under subdivision (1).

(b) A county fiscal body may not grant a credit for homesteads that exceeds the percentage permitted under IC 6-3.5-6-13 for a county option income tax imposed under IC 6-3.5-6.

(c) The increase in the homestead credit percentage must be uniform for all homesteads in a county.

(d) In an ordinance that increases the homestead credit percentage, the county fiscal body may provide for a series of increases or decreases to take place for each of a group of succeeding calendar years.

(e) An ordinance may be adopted under this section after January 1 but before June 1 of a calendar year.

(f) An ordinance adopted under this section takes effect January 1 of the next calendar year.

(g) An ordinance adopted under this section for a county is not applicable for a year if on January 1 of that year the county option income tax is not in effect.

As added by P.L.2-1992, SEC.14. Amended by P.L.113-2010, SEC.92.

IC 12-20-25-46

Income tax revenues; distribution after termination of controlled status

Sec. 46. After the termination of the controlled status of all townships located in a county as provided in section 41 of this chapter, if the county adjusted gross income tax or the county option income tax is imposed under this chapter, any revenues from the county adjusted gross income tax or the county option income tax imposed under this chapter shall be distributed in the following priority:

(1) To satisfy the requirements of section 43 of this chapter.

(2) If the county option income tax imposed under this chapter is in effect, to replace the amount, if any, of property tax revenue lost due to the allowance of a homestead credit within the county under an ordinance adopted under section 45 of this chapter.

(3) To be used as a certified distribution as provided in IC 6-3.5-1.1 or IC 6-3.5-6, whichever applies.

As added by P.L.2-1992, SEC.14. Amended by P.L.113-2010, SEC.93.

IC 12-20-25-47
Continuation of rules until modified or terminated

Sec. 47. Rules established by the control board before the termination of a township's controlled status continue to govern the operations of the township trustee's office until the rules are modified or terminated by the township board.

As added by P.L.2-1992, SEC.14.

IC 12-20-25-48
Audits or reports as public records

Sec. 48. An audit or a report:

(1) required to be made by this chapter; or

(2) requested to be made by the management committee or the control board;

is a public record.

As added by P.L.2-1992, SEC.14.

IC 12-20-25-49
Maximum permissible ad valorem property tax levy mandatory

Sec. 49. Each distressed township shall take all action necessary to levy the maximum permissible ad valorem property tax levy for township assistance permitted under IC 6-1.1-18.5. If a distressed township fails to take this action, the department shall adjust, in the board's certificate of levies of governmental entities in the county, the township's proposed levy so that the levy is the maximum permissible ad valorem property tax levy.

As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.363; P.L.73-2005, SEC.143.

IC 12-20-25-50
Office space for management committee and control board

Sec. 50. The county auditor shall provide the management committee and the control board with office space.

As added by P.L.2-1992, SEC.14.

IC 12-20-25-51
Distressed township supplemental township assistance fund; establishment; administration; general purpose

Sec. 51. The distressed township supplemental township assistance fund is established. The fund shall be administered by the treasurer of state. The fund shall be used to provide state support to distressed townships.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.144.

IC 12-20-25-52
Nature and uses of distressed township supplemental township assistance fund

Sec. 52. State support provided from the distressed township supplemental township assistance fund:

(1) is supplemental to other financing for township assistance;
(2) may be used to satisfy township assistance claims incurred during the period the management committee is in control of the township trustee's office; and
(3) subject to the approval of the control board, may be used to pay claims approved under IC 12-2-14-22 (before its repeal), IC 12-2-14-23 (before its repeal), or section 27 or 28 of this chapter.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.145.

IC 12-20-25-53
Contents of distressed township supplemental township assistance fund

Sec. 53. The distressed township supplemental township assistance fund consists of appropriations made to the fund by the general assembly. Interest earned on the money in the fund remains in the fund. The balance remaining in the fund at the end of a state fiscal year remains in the fund and does not revert to the state general fund.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.146.

IC 12-20-25-54
Audit disclosing negligence or unlawful conduct; criminal or civil charges

Sec. 54. If a financial or compliance audit required under section 15 of this chapter discloses negligence or unlawful conduct in the approval of or receipt of township assistance, the management committee shall file a copy of the audit with the prosecuting attorney and with the attorney general. If the attorney general finds that criminal or civil charges should be filed and the prosecuting attorney fails to file the charges, the attorney general shall file the charges.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.147.

IC 12-20-25-55
Failure to notify of distressed condition; offense

Sec. 55. A township trustee who knowingly violates section 6 of this chapter commits a Class A misdemeanor.

As added by P.L.2-1992, SEC.14.

IC 12-20-26

Chapter 26. Revenue Raised for Township Assistance; Balance After Payment of Claims

IC 12-20-26-1

Transfer of balance to county general fund

Sec. 1. In a county in which a tax has been levied and raised for the payment of notes and interest on the notes issued by the board of commissioners for the purpose of paying township assistance claims against a township, the county auditor shall transfer the balance of money that remains after paying all notes and interest to the county general fund to the credit of the township assistance fund of the township in which the money was raised.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.148.

IC 12-20-27

Chapter 27. Recovery From Estate of Township Assistance Recipient

IC 12-20-27-1

Filing claims

Sec. 1. (a) Subject to IC 12-20-11-5(b), a township trustee who, as administrator of township assistance, furnishes township assistance, may file a claim against the estate of a township assistance recipient who:

(1) dies, leaving an estate; and

(2) is not survived by:

(A) a spouse;

(B) an adult dependent with a disability; or

(C) a dependent child less than eighteen (18) years of age;

for the value of township assistance given the recipient before the recipient's death.

(b) For purposes of this section, the estate of a township assistance recipient includes any money or other personal property in the possession of a coroner under IC 36-2-14-11.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.71; P.L.73-2005, SEC.149; P.L.99-2007, SEC.99.

IC 12-20-27-1.5

Repayment of benefits provided during interim period

Sec. 1.5. (a) As used in this section, "interim period" means the period:

(1) beginning when a township trustee obtains from a township assistance applicant or member of the applicant's household an agreement or authorization described in subsection (b); and

(2) ending when the township assistance applicant or member of the applicant's household receives the judgment, compensation, or monetary benefit or leaves the household.

(b) Subject to IC 12-20-11-5(b), if a township trustee, as administrator of township assistance, anticipates that a township assistance applicant or a member of the applicant's household is likely to receive a judgment, compensation, or a monetary benefit from a third party, the township trustee may require the applicant or the affected member of the applicant's household to:

(1) enter into a subrogation agreement; or

(2) sign a Social Security Administration's reimbursement authorization;

for the repayment of any township assistance benefits provided by the township during the interim period. A subrogation agreement authorized under subdivision (1) may only require repayment of interim benefits provided to the applicant or to the applicant's dependents who were members of the household to which township assistance benefits were paid.

As added by P.L.51-1996, SEC.72. Amended by P.L.73-2005, SEC.150.

IC 12-20-27-2
General claim status

Sec. 2. A claim filed against the estate of a township assistance recipient under IC 12-2-14 (before its repeal) or this chapter shall be filed and allowed as a general claim.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.151.

IC 12-20-28
Chapter 28. Records and Reports

IC 12-20-28-1
Repealed
(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-28-2
Repealed
(Repealed by P.L.51-1996, SEC.77.)

IC 12-20-28-3
Annual statistical report; statewide statistical report; filing

Sec. 3. (a) The definitions in this section apply to a report that is required to be filed under this section.

(b) As used in this section, "case contact" means any act of service in which a township employee has reason to enter a comment or narrative into the record of an application for township assistance under this article regardless of whether the applicant receives or does not receive township assistance funds.

(c) As used in this section, "total number of households containing township assistance recipients" means the sum to be determined by counting the total number of individuals who file an application for which assistance is granted. A household may be counted only once during a calendar year regardless of the number of times assistance is provided if the same individual makes the application for assistance.

(d) As used in this section, "total number of recipients" means the number of individuals who are members of a household that receives assistance on at least one (1) occasion during the calendar year. An individual may be counted only one (1) time during a calendar year regardless of the:

(1) number of times assistance is provided; or

(2) number of households in which the individual resides during a particular year.

(e) As used in this section, "total number of requests for assistance" means the number of times an individual or a household separately requests any type of township assistance.

(f) The township trustee shall file an annual statistical report on township housing, medical care, utility assistance, food assistance, burial assistance, food pantry assistance, services related to representative payee programs, services related to special nontraditional programs, and case management services with the state board of accounts. The township trustee shall provide a copy of the annual statistical report to the county auditor. The county auditor shall keep the copy of the report in the county auditor's office. Except as provided in subsection (k), the report must be made on a form provided by the state board of accounts. The report must contain the following information:

(1) The total number of requests for assistance.

(2) The total number of each of the following:

(A) Recipients of township assistance.

(B) Households containing recipients of township assistance.

(C) Case contacts made with or on behalf of:

(i) recipients of township assistance; or

(ii) members of a household receiving township assistance.

(3) The total value of benefits provided to recipients of township assistance.

(4) The total value of benefits provided through the efforts of township staff from sources other than township funds.

(5) The total number of each of the following:

(A) Recipients of township assistance and households receiving utility assistance.

(B) Recipients assisted by township staff in receiving utility assistance from sources other than township funds.

(6) The total value of benefits provided for the payment of utilities, including the value of benefits of utility assistance provided through the efforts of township staff from sources other than township funds.

(7) The total number of each of the following:

(A) Recipients of township assistance and households receiving housing assistance.

(B) Recipients assisted by township staff in receiving housing assistance from sources other than township funds.

(8) The total value of benefits provided for housing assistance, including the value of benefits of housing assistance provided through the efforts of township staff from sources other than township funds.

(9) The total number of each of the following:

(A) Recipients of township assistance and households receiving food assistance.

(B) Recipients assisted by township staff in receiving food assistance from sources other than township funds.

(10) The total value of food assistance provided, including the value of food assistance provided through the efforts of township staff from sources other than township funds.

(11) The total number of each of the following:

(A) Recipients of township assistance and households provided health care.

(B) Recipients assisted by township staff in receiving health care assistance from sources other than township funds.

(12) The total value of health care provided, including the value of health care assistance provided through the efforts of township staff from sources other than township funds.

(13) The total number of funerals, burials, and cremations.

(14) The total value of funerals, burials, and cremations, including the difference between the:

(A) actual value of the funerals, burials, and cremations; and

(B) amount paid by the township for the funerals, burials, and cremations.

(15) The total of each of the following:

(A) Number of nights of emergency shelter provided to the homeless.

(B) Number of nights of emergency shelter provided to homeless individuals through the efforts of township staff from sources other than township funds.

(C) Value of the nights of emergency shelter provided to homeless individuals by the township and the value of the nights of emergency shelter provided through the efforts of the township staff from sources other than township funds.

(16) The total of each of the following:

(A) Number of referrals of township assistance applicants to other programs.

(B) Value of the services provided by the township in making referrals to other programs.

(17) The total number of training programs or job placements found for recipients of township assistance with the assistance of the township trustee.

(18) The number of hours spent by recipients of township assistance at workfare.

(19) The total value of the services provided by workfare to the township and other agencies.

(20) The total amount of reimbursement for assistance received from:

(A) recipients;

(B) members of recipients' households; or

(C) recipients' estates;

under IC 12-20-6-10, IC 12-20-27-1, or IC 12-20-27-1.5.

(21) The total amount of reimbursement for assistance received from medical programs under IC 12-20-16-2(e).

(22) The total of each of the following:

(A) Number of individuals assisted through a representative payee program.

(B) Amount of funds processed through the representative payee program that are not township funds.

(23) The total of each of the following:

(A) Number of individuals assisted through special nontraditional programs provided through the township without the expenditure of township funds.

(B) Amount of funds used to provide the special nontraditional programs that are not township funds.

(24) The total of each of the following:

(A) Number of hours an investigator of township assistance spends providing case management services to a recipient of township assistance or a member of a household receiving township assistance.

(B) Value of the case management services provided.

(25) The total number of housing inspections performed by the township.

If the total number or value of any item required to be reported under

this subsection is zero (0), the township trustee shall include the notation "0" in the report where the total number or value is required to be reported.

(g) The state board of accounts shall compare and compile all data reported under subsection (f) into a statewide statistical report. The department shall summarize the data compiled by the state board of accounts that relate to the fixing of township budgets, levies, and tax rates and shall include the department's summary within the statewide statistical report prepared under this subsection. Before July 1 of each year, the state board of accounts shall file the statewide statistical report prepared under this subsection with the executive director of the legislative services agency in an electronic format under IC 5-14-6.

(h) The state board of accounts shall forward a copy of:

(1) each annual report forwarded to the board under subsection (f); and

(2) the statewide statistical report under subsection (g);

to the department and the division of family resources.

(i) The division of family resources shall include in the division's periodic reports made to the United States Department of Health and Human Services concerning the Temporary Assistance for Needy Families (TANF) and Supplemental Security Income (SSI) programs information forwarded to the division under subsection (h) concerning the total number of recipients of township assistance and the total dollar amount of benefits provided.

(j) The department may not approve the budget of a township trustee who fails to file an annual report under subsection (f) in the preceding calendar year.

(k) This section does not prevent the electronic transfer of data required to be reported under IC 12-2-1-40 (before its repeal) or this section if the following conditions are met:

(1) The method of reporting is acceptable to both the township trustee reporting the information and the governmental entity to which the information is reported.

(2) A written copy of information reported by electronic transfer is on file with the township trustee reporting information by electronic means.

(l) The information required to be reported by the township trustee under this section shall be maintained by the township trustee in accordance with IC 5-15-6.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.73; P.L.90-2002, SEC.364; P.L.262-2003, SEC.7; P.L.28-2004, SEC.111; P.L.73-2005, SEC.152 and P.L.73-2005, SEC.153; P.L.180-2005, SEC.6; P.L.145-2006, SEC.122; P.L.1-2009, SEC.106.

IC 12-21

ARTICLE 21. DIVISION OF MENTAL HEALTH AND ADDICTION

IC 12-21-1

Chapter 1. Establishment of Division

IC 12-21-1-1

Establishment

Sec. 1. The division of mental health and addiction is established to apply the division's resources to ensure that Indiana citizens have access to appropriate mental health and addiction services that promote individual self-sufficiency.

As added by P.L.2-1992, SEC.15. Amended by P.L.40-1994, SEC.26; P.L.215-2001, SEC.54.

IC 12-21-1-2

Application of IC 12-8-8.5

Sec. 2. IC 12-8-8.5 applies to the division.

As added by P.L.2-1992, SEC.15. Amended by P.L.160-2012, SEC.38.

IC 12-21-1-3

Composition of division

Sec. 3. The division is composed of the following:

(1) The director.

(2) The division of mental health and addiction planning and advisory council.

(3) Other personnel necessary for the performance of the functions imposed upon the division under law.

As added by P.L.2-1992, SEC.15. Amended by P.L.40-1994, SEC.27; P.L.215-2001, SEC.55; P.L.28-2012, SEC.3.

IC 12-21-2

Chapter 2. Director of Division

IC 12-21-2-1

Appointment

Sec. 1. The division shall be administered by a director appointed under IC 12-8-8.5-1.

As added by P.L.2-1992, SEC.15. Amended by P.L.160-2012, SEC.39.

IC 12-21-2-2

Application of IC 12-8-8.5

Sec. 2. IC 12-8-8.5 applies to the director.

As added by P.L.2-1992, SEC.15. Amended by P.L.160-2012, SEC.40.

IC 12-21-2-3

Authority; duties

Sec. 3. In addition to the general authority granted to the director under IC 12-8-8.5, the director shall do the following:

(1) Organize the division, create the appropriate personnel positions, and employ personnel necessary to discharge the statutory duties and powers of the division or a bureau of the division.

(2) Subject to the approval of the state personnel department, establish personnel qualifications for all deputy directors, assistant directors, bureau heads, and superintendents.

(3) Subject to the approval of the budget director and the governor, establish the compensation of all deputy directors, assistant directors, bureau heads, and superintendents.

(4) Study the entire problem of mental health, mental illness, and addictions existing in Indiana.

(5) Adopt rules under IC 4-22-2 for the following:

(A) Standards for the operation of private institutions that are licensed under IC 12-25 for the diagnosis, treatment, and care of individuals with psychiatric disorders, addictions, or other abnormal mental conditions.

(B) Licensing or certifying community residential programs described in IC 12-22-2-3.5 for individuals with serious mental illness (SMI), serious emotional disturbance (SED), or chronic addiction (CA) with the exception of psychiatric residential treatment facilities.

(C) Certifying community mental health centers to operate in Indiana.

(D) Establish exclusive geographic primary service areas for community mental health centers. The rules must include the following:

(i) Criteria and procedures to justify the change to the boundaries of a community mental health center's primary service area.

(ii) Criteria and procedures to justify the change of an assignment of a community mental health center to a primary service area.

(iii) A provision specifying that the criteria and procedures determined in items (i) and (ii) must include an option for the county and the community mental health center to initiate a request for a change in primary service area or provider assignment.

(iv) A provision specifying the criteria and procedures determined in items (i) and (ii) may not limit an eligible consumer's right to choose or access the services of any provider who is certified by the division of mental health and addiction to provide public supported mental health services.

(6) Institute programs, in conjunction with an accredited college or university and with the approval, if required by law, of the commission for higher education, for the instruction of students of mental health and other related occupations. The programs may be designed to meet requirements for undergraduate and postgraduate degrees and to provide continuing education and research.

(7) Develop programs to educate the public in regard to the prevention, diagnosis, treatment, and care of all abnormal mental conditions.

(8) Make the facilities of the Larue D. Carter Memorial Hospital available for the instruction of medical students, student nurses, interns, and resident physicians under the supervision of the faculty of the Indiana University School of Medicine for use by the school in connection with research and instruction in psychiatric disorders.

(9) Institute a stipend program designed to improve the quality and quantity of staff that state institutions employ.

(10) Establish, supervise, and conduct community programs, either directly or by contract, for the diagnosis, treatment, and prevention of psychiatric disorders.

(11) Adopt rules under IC 4-22-2 concerning the records and data to be kept concerning individuals admitted to state institutions, community mental health centers, or other providers.

(12) Compile information and statistics concerning the ethnicity and gender of a program or service recipient.

(13) Establish standards for services described in IC 12-7-2-40.6 for community mental health centers and other providers.

As added by P.L.2-1992, SEC.15. Amended by P.L.40-1994, SEC.28; P.L.142-1995, SEC.4; P.L.111-1997, SEC.3; P.L.215-2001, SEC.56; P.L.79-2002, SEC.1; P.L.2-2007, SEC.163; P.L.99-2007, SEC.100; P.L.143-2011, SEC.14; P.L.160-2012, SEC.41.

IC 12-21-2-4

Community programs; availability of services

Sec. 4. Subject to IC 12-26-2-9, the services provided under community programs under section 3(10) of this chapter must be available to any person upon a court order under IC 12-26.

As added by P.L.2-1992, SEC.15.

IC 12-21-2-5

Delegation of duties or powers; final decision requirement; exemption

Sec. 5. (a) Subject to subsection (b), the director may delegate statutory duties or powers of the division, a bureau of the division, the director, or other statutorily created personnel.

(b) If the director decides that a final decision is to be made concerning the placement of an individual with a mental illness in a mental health facility, the final decision must be made:

(1) by the director, if the director is a licensed psychiatrist or licensed psychologist; or

(2) by a licensed psychiatrist or licensed psychologist who is delegated the authority by the director;

in consultation with the patient's psychiatrist or psychologist.

(c) Subsection (b) does not apply to an initial placement designation made under IC 12-24-12-10(b).

As added by P.L.2-1992, SEC.15. Amended by P.L.25-2003, SEC.2; P.L.184-2003, SEC.12; P.L.99-2007, SEC.101.

IC 12-21-2-6

Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-21-2-7

Contracts; powers; approval; requisites

Sec. 7. (a) The director may act for the division in entering into contracts for the disbursal of money and the providing of service.

(b) Before entering into a contract under this section, the director shall submit the contract to the attorney general for approval as to form and legality.

(c) A contract under this section must do the following:

(1) Specify the services to be provided and the client populations to whom services must be provided.

(2) Provide for a reduction in funding for the failure to comply with terms of the contract.

As added by P.L.2-1992, SEC.15. Amended by P.L.40-1994, SEC.29.

IC 12-21-2-8

Monitoring, evaluation, and quality assurance; award of contracts; reimbursement of contract payments; approval of contracts; required contents of contracts

Sec. 8. (a) The director shall develop a comprehensive system of monitoring, evaluation, and quality assurance for the services required by this chapter.

(b) The director shall determine to whom contracts are awarded, based on the following factors:

(1) The continuity of services a contractor provides for patients.

(2) The accessibility of a contractor's services to patients.

(3) The acceptability of a contractor's services to patients.

(4) A contractor's ability to focus services on building the self-sufficiency of the patient.

(c) This subsection applies to the reimbursement of contract payments to providers. Payments must be determined prospectively in accordance with generally accepted accounting principles and actuarial principles recognizing costs incurred by efficiently and economically operated programs that:

(1) serve individuals with a mental illness or substance abuse patients; and

(2) are subject to quality and safety standards and laws.

(d) Before entering into a contract under this section, the director shall submit the contract to the attorney general for approval as to form and legality.

(e) A contract under this section must do the following:

(1) Specify:

(A) the work to be performed; and

(B) the patient populations to whom services must be provided.

(2) Provide for a reduction in funding or termination of the contract for failure to comply with terms of the contract.

(3) Require that the contractor meet the standards set forth in rules adopted by the division of mental health and addiction under IC 4-22-2.

(4) Require that the contractor participate in the division's evaluation process.

(5) For any service for which the division chooses to contract on a per diem basis, the per diem reimbursement shall be determined under subsection (c) for the contractor's reasonable cost of providing services.

(6) In contracts with capitated payment provisions, provide that the contractor's cost of purchasing stop-loss insurance for the patient populations to be served in amounts and with limits customarily purchased by prepaid health care plans must be:

(A) included in the actuarial determination of the capitated payment amounts; or

(B) separately paid to the contractor by the division.

(7) Provide that a contract for enumerated services granted by the division under this section to an approved provider may not create or confer upon the provider liability or responsibility for care or services beyond those services supported by the contract.

As added by P.L.40-1994, SEC.30. Amended by P.L.215-2001, SEC.57; P.L.99-2007, SEC.102; P.L.143-2011, SEC.15.

IC 12-21-2-9

Repealed

(Repealed by P.L.40-1994, SEC.85.)

IC 12-21-3

Chapter 3. Personnel of Division

IC 12-21-3-1

Repealed

(Repealed by P.L.6-2012, SEC.96.)

IC 12-21-3-2

Civil or criminal liability; action or proceeding; defense; damages

Sec. 2. (a) If a member, an officer, or an employee of the division is accused of an offense or sued for civil damages because of an act performed within the course of the individual's employment or because of an act performed under the authority or order of a superior officer, the attorney general shall defend the individual in an action for civil damages. If the action or proceeding is criminal in nature, the governor shall designate counsel to represent and defend the accused and the state is financially responsible for the expense of the defense.

(b) This section does not do either of the following:

(1) Deprive an individual of the right to select defense counsel of the individual's choice at the individual's expense.

(2) Relieve a person from responsibility for civil damages.

As added by P.L.2-1992, SEC.15.

IC 12-21-3-3

Performance bonds and crime policies

Sec. 3. (a) An officer or employee of the division shall, as the director requires, furnish a bond or crime policy endorsed to include faithful performance in the amount the director determines payable to the state and conditioned upon the faithful performance of the individual's duties.

(b) The bonds or crime policies are subject to approval by the insurance commissioner and shall be filed in the office of the secretary of state.

(c) The premiums for the bonds are payable from the money of the division.

(d) The director may secure a standard form blanket bond or crime insurance policy endorsed to include faithful performance covering all or any part of the officers and employees of the department. However, the blanket bond or crime insurance policy must be in an amount not less than fifty thousand dollars ($50,000).

(e) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

As added by P.L.2-1992, SEC.15. Amended by P.L.49-1995, SEC.8.

IC 12-21-3-4

Authorization to administer oaths, take depositions, and certify to official acts

Sec. 4. The director, deputy directors, bureau heads of the division, and the superintendents of the state institutions administered

by the division may administer oaths, take depositions, and certify to official acts.

As added by P.L.2-1992, SEC.15.

IC 12-21-4

Chapter 4. Division Advisory Council

IC 12-21-4-1

"Council"

Sec. 1. As used in this chapter, "council" refers to the division of mental health and addiction planning and advisory council established by this chapter.

As added by P.L.2-1992, SEC.15. Amended by P.L.215-2001, SEC.58; P.L.28-2012, SEC.4.

IC 12-21-4-2

Establishment

Sec. 2. The division of mental health and addiction planning and advisory council is established. Any reference in statute or rule to the "mental health and addiction advisory council" is a reference to the mental health and addiction planning and advisory council.

As added by P.L.2-1992, SEC.15. Amended by P.L.215-2001, SEC.59; P.L.28-2012, SEC.5.

IC 12-21-4-3

Members

Sec. 3. The council consists of the following twenty-nine (29) members, not less than fifty percent (50%) of whom must be individuals who are not state employees or providers of mental health services:

(1) The director.

(2) The state superintendent of public instruction or the superintendent's designee.

(3) The director of the office of Medicaid policy and planning, or the director's designee.

(4) The director of the bureau of rehabilitation services or the director's designee.

(5) The executive director of the Indiana housing and community development authority created by IC 5-20-1-3 or the executive director's designee.

(6) The director of the criminal justice institute or the director's designee.

(7) The director of the department of child services or the director's designee.

(8) Twenty-two (22) individuals who:

(A) are appointed by the secretary;

(B) have a recognized knowledge of or interest in the programs administered by the division, including representatives of parents of children with serious emotional disturbances;

(C) are appointed for a term of four (4) years; and

(D) serve until a successor is appointed.

As added by P.L.2-1992, SEC.15. Amended by P.L.28-2012, SEC.6.

IC 12-21-4-4
Repealed
(Repealed by P.L.28-2012, SEC.7.)

IC 12-21-4-5
Chairperson
Sec. 5. The director serves as chairperson of the council at the first meeting of the council held after July 1 of each year. At the first meeting of the council after July 1 of each year, the director may appoint a chairperson of the council from among the members of the council for a term of one (1) year.
As added by P.L.2-1992, SEC.15. Amended by P.L.28-2012, SEC.8.

IC 12-21-4-6
Meetings
Sec. 6. The council shall meet at least quarterly and is subject to special meetings at the call of the chairperson.
As added by P.L.2-1992, SEC.15. Amended by P.L.28-2012, SEC.9.

IC 12-21-4-7
Repealed
(Repealed by P.L.28-2012, SEC.10.)

IC 12-21-4-8
Term
Sec. 8. (a) This section applies to a member of the council who is appointed under section 3(8) of this chapter.
(b) Notwithstanding section 3(8)(C) of this chapter, for the appointments made in 2012, eleven (11) members shall be appointed for a term of four (4) years, and eleven (11) members shall be appointed for a term of three (3) years.
As added by P.L.28-2012, SEC.11.

IC 12-21-4-9
Terms of ex-officio members
Sec. 9. An individual serving on the council under section 3(1) through 3(7) of this chapter shall serve until the individual no longer holds the individual's office described in section 3(1) through 3(7) of this chapter. The appointing authority for an individual serving on the council under section 3(1) through 3(7) of this chapter shall appoint a replacement for an appointee who ceases to be a member.
As added by P.L.28-2012, SEC.12.

IC 12-21-4-10
Quorum
Sec. 10. All members of the council are voting members. A majority of the appointed members constitutes a quorum. The affirmative vote of a majority of the appointed members is required for the council to take any action.
As added by P.L.28-2012, SEC.13.

IC 12-21-4-11

Salary per diem; travel expenses

Sec. 11. Each member of the council who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.28-2012, SEC.14.

IC 12-21-4.1

Chapter 4.1. Workforce Development Task Force

IC 12-21-4.1-1

Expired

(Expired 12-31-2011 by P.L.143-2011, SEC.16.)

IC 12-21-5
Chapter 5. Duties of Division

IC 12-21-5-1
Administration of related laws

Sec. 1. The division is responsible for administering the following:

(1) This article.
(2) IC 12-22.
(3) IC 12-23.
(4) IC 12-25.
(5) Other programs the division is required to administer by statute.
(6) State institutions listed in IC 12-24-1-3.

As added by P.L.2-1992, SEC.15. Amended by P.L.40-1994, SEC.32.

IC 12-21-5-1.5
Mental health and addiction services

Sec. 1.5. The division shall do the following:

(1) Adopt rules under IC 4-22-2 to establish and maintain criteria to determine patient eligibility and priority for publicly supported mental health and addiction services. The rules must include criteria for patient eligibility and priority based on the following:
    (A) A patient's income.
    (B) A patient's level of daily functioning.
    (C) A patient's prognosis.
(2) Within the limits of appropriated funds, contract with a network of providers to provide services in an appropriate setting that is the least restrictive to individuals who qualify for the services.
(3) Require the providers of services funded directly by the division to be in good standing with an appropriate accrediting body as required by rules adopted under IC 4-22-2 by the division.
(4) Develop a provider profile that must be used to evaluate the performance of a provider. A provider's profile must include input from consumers, citizens, and representatives of the mental health ombudsman program (IC 12-27-9) regarding the provider's:
    (A) information provided to the patient on patient rights before treatment;
    (B) accessibility, acceptability, and continuity of services provided or requested; and
    (C) total cost of care per individual, using state administered funds.
(5) Ensure compliance with all other performance criteria set forth in a provider contract. In addition to the requirements set forth in IC 12-21-2-7, a provider contract must include the following:
    (A) A requirement that the standards and criteria used in the

evaluation of care plans be available and accessible to the patient.

(B) A requirement that the provider involve the patient in the choice of and preparation of the treatment plan to the greatest extent feasible.

(C) A provision encouraging the provider to intervene in a patient's situation as early as possible, balancing the patient's right to liberty with the need for treatment.

(D) A requirement that the provider set up and implement an internal appeal process for the patient.

(6) Establish a toll free telephone number that operates during normal business hours for individuals to make comments to the division in a confidential manner regarding services or service providers.

(7) Develop a confidential system to evaluate complaints and patient appeals received by the division of mental health and addiction and to take appropriate action regarding the results of an investigation. A provider is entitled to request and to have a hearing before information derived from the investigation is incorporated into the provider's profile. Information contained within the provider profile is subject to inspection and copying under IC 5-14-3-3.

As added by P.L.40-1994, SEC.33. Amended by P.L.215-2001, SEC.60; P.L.28-2004, SEC.112; P.L.143-2011, SEC.17.

IC 12-21-5-2

Education and treatment of children with an emotional disturbance

Sec. 2. The division is responsible for the following:

(1) The planning, research, and development of programs and methods for the education and treatment of children with an emotional disturbance.

(2) The coordination of governmental services, activities, and programs in Indiana relating to such children.

(3) The administration of the state supported services concerned with such children.

(4) The preparation of the annual report required by IC 7.1-6-2-5.

(5) The provision of information and guidance to local school corporations on the development of evidence based programs for basic or inservice courses for teachers and training for teachers on the following:

(A) Prevention of child suicide.

(B) Recognition of signs that a student may be considering suicide.

As added by P.L.2-1992, SEC.15. Amended by P.L.256-1996, SEC.3; P.L.99-2007, SEC.103; P.L.93-2011, SEC.1.

IC 12-21-5-3

Special education; programs for children with disabilities

Sec. 3. IC 20-35-2 applies to the operation of each education

program for children with disabilities (as defined in IC 20-35-1-2) conducted by a state owned and operated mental health institution or furnished under an agreement with the division.

As added by P.L.2-1992, SEC.15. Amended by P.L.23-1993, SEC.55; P.L.1-2005, SEC.139.

IC 12-21-6
Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-21-6.5
Repealed

(Repealed by P.L.53-2014, SEC.113.)

IC 12-22

ARTICLE 22. SERVICES FOR PERSONS WITH MENTAL ILLNESS

IC 12-22-1

Repealed

(Repealed by P.L.143-2011, SEC.31.)

IC 12-22-2

Chapter 2. Community Residential Programs

IC 12-22-2-0.3

Termination of unsuccessful sub-acute stabilization program; general assembly approval needed for increase in number or relocation

Sec. 0.3. (a) This section applies to the four (4) sub-acute stabilization programs implemented under the subdivision (1) added by P.L.62-1993 to IC 12-22-2-3 (repealed).

(b) If the division determines that any one (1) of the four (4) sub-acute stabilization programs is not successful, the division shall terminate operation of the unsuccessful program. The division may not expand the number of sub-acute stabilization programs or change the location of a program without approval from the general assembly.

As added by P.L.220-2011, SEC.273. Amended by P.L.6-2012, SEC.97.

IC 12-22-2-1

Planning and administration of programs

Sec. 1. The division shall plan, develop, and administer programs of community based residential alternatives to placement in state institutions and nursing facilities licensed under IC 16-28 for individuals with a mental illness.

As added by P.L.2-1992, SEC.16. Amended by P.L.78-1992, SEC.25; P.L.2-1993, SEC.113; P.L.99-2007, SEC.109.

IC 12-22-2-2

Simulation of homelike atmosphere

Sec. 2. The programs described in section 1 of this chapter must, to the extent feasible, simulate a homelike atmosphere with patterns and conditions of everyday life that are as close as possible to normal.

As added by P.L.2-1992, SEC.16.

IC 12-22-2-3

Repealed

(Repealed by P.L.143-2011, SEC.31.)

IC 12-22-2-3.5

Community based residential programs

Sec. 3.5. Community based residential programs include a broad range of living arrangements designed to meet the unique needs of individuals with behavioral health disorders in integrated settings and described in rules adopted by the division under IC 4-22-2.

As added by P.L.143-2011, SEC.24.

IC 12-22-2-4

Repealed

(Repealed by P.L.143-2011, SEC.31.)

IC 12-22-2-5
Least restrictive placement

Sec. 5. To the extent that programs described in section 3.5 of this chapter are available and meet an individual's needs, an individual should be placed in a program that is the least restrictive.

As added by P.L.2-1992, SEC.16. Amended by P.L.143-2011, SEC.25.

IC 12-22-2-6
Repealed

(Repealed by P.L.143-2011, SEC.31.)

IC 12-22-2-7
Repealed

(Repealed by P.L.143-2011, SEC.31.)

IC 12-22-2-8
Repealed

(Repealed by P.L.143-2011, SEC.31.)

IC 12-22-2-9
Repealed

(Repealed by P.L.143-2011, SEC.31.)

IC 12-22-2-10
Repealed

(Repealed by P.L.143-2011, SEC.31.)

IC 12-22-2-11
Operation by unlicensed entity; investigations; penalties

Sec. 11. (a) An entity, other than a psychiatric residential treatment facility, may not operate or hold itself out as operating a group home for individuals with serious mental illness (SMI), serious emotional disturbance (SED), or chronic addiction (CA) unless the entity is licensed or certified by the division.

(b) The division of mental health and addiction shall investigate a report of:

(1) an unlicensed facility housing a community residential program described in section 3.5 of this chapter;

(2) an uncertified operator of a community residential program described in section 3.5 of this chapter; or

(3) a licensed or certified entity's noncompliance with this article;

and report the division's findings to the attorney general.

(c) The attorney general may do the following:

(1) Seek the issuance of a search warrant to assist in an investigation under this section.

(2) File an action for injunctive relief to stop the operation of a

facility described in subsection (b) if there is reasonable cause to believe that:

(A) the facility or the operator of a community residential program described in subsection (b) is operating without a required license or certification; or

(B) a licensed or certified entity's actions or omissions create an immediate danger of serious bodily injury to an individual with a mental illness or an imminent danger to the health of an individual with a mental illness.

(3) Seek in a civil action a civil penalty of not more than one hundred dollars ($100) a day for each day a facility is operating:

(A) without a license or certification required by law; or

(B) with a license or certification required under this chapter, but is not in compliance with this article, IC 12-21-2-3, or rules adopted under this article or IC 12-21-2-3.

(d) The division of mental health and addiction may provide for the removal of individuals with a mental illness from facilities for individuals with a mental illness described in subsection (c).

(e) There must be an opportunity for an informal meeting with the division of mental health and addiction after injunctive relief is ordered under this section.

(f) The civil penalties collected under this section must be deposited in the mental health centers fund (IC 6-7-1-32.1).

As added by P.L.111-1997, SEC.4. Amended by P.L.215-2001, SEC.61; P.L.99-2007, SEC.114; P.L.143-2011, SEC.26.

IC 12-22-3
Repealed

(Repealed by P.L.143-2011, SEC.31.)

IC 12-22-4
Repealed

(Repealed by P.L.28-2012, SEC.16.)

IC 12-23

ARTICLE 23. ADDICTION SERVICES

IC 12-23-1

Chapter 1. Bureau of Addiction Services

IC 12-23-1-1
Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-1-2
Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-1-3
Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-1-4
Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-1-5
Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-1-6
Powers

Sec. 6. The division has the following powers:

(1) Promoting unified programs for education and research, prevention and control, diagnosis, and treatment of substance and gambling abuse based on comprehensive plans developed by the division.

(2) Assuring compliance with state rules and federal regulations for substance abuse services programs and revoking authorization of the programs upon a determination that the programs do not comply with the rules and regulations.

(3) Making agreements and contracts with:

(A) another department, authority, or agency of the state;

(B) another state;

(C) the federal government;

(D) a state or private postsecondary educational institution; or

(E) a public or private agency;

to effectuate the purposes of this article.

(4) Directly or by contract, approving and certifying facilities and services for the treatment, care, or rehabilitation of alcoholics, drug abusers, and compulsive gamblers in accordance with requirements established by the division and assigning or transferring individuals placed under the division's

care or supervision to the facilities.

(5) Requiring, as a condition of operation, that each public and private treatment facility, except facilities and services created and funded under IC 12-23-14 that do not provide treatment and rehabilitation services, be certified according to standards established by the division.

(6) Maintaining a toll free telephone line that the public may use to obtain counseling and information about programs that help individuals with drug, alcohol, and gambling problems.

(7) Adopting rules under IC 4-22-2 to implement this article.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.34; P.L.54-1995, SEC.3; P.L.122-1997, SEC.1; P.L.2-2007, SEC.164.

IC 12-23-1-7

Authority of division; grants, loans, and gifts; federal government grants and contracts

Sec. 7. (a) Except as provided in subsection (b) and notwithstanding any other law, the division is the sole state authority authorized to:

(1) disburse grants, loans, or gifts made by the federal government or any other source to the state, state agencies, and subdivisions of the state; and

(2) review and approve grants or contracts made by the federal government to or with a local governmental unit or other public or private agency;

for alcoholism, compulsive gambling, or drug abuse prevention or for treatment in the field of addictions.

(b) Subsection (a) does not apply if the federal law regulating a grant, loan, or gift does not allow exclusive power and control over the disbursement of the grant, loan, or gift to be vested in a single state authority.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.35; P.L.54-1995, SEC.4.

IC 12-23-1-8

Authority of division; disbursements to addiction services advisory council or for purposes of IC 12-23-1-6

Sec. 8. Notwithstanding any other law, the division is the sole state authority authorized to disburse money appropriated to the division for a purpose described in section 6 of this chapter.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.36.

IC 12-23-1-9

Allocation of federal aid for Drug Abuse and Alcohol Abuse/Alcoholic Efforts

Sec. 9. (a) A part of the total amount of the federal money earmarked for Drug Abuse and Alcohol Abuse/Alcoholics Efforts received for disbursement by the division shall be used for local programs that provide prevention, intervention, or treatment services for individuals who:

(1) have a primary diagnosis of chronic substance abuse and dependence; and

(2) are without significant or immediate treatment needs for mental illness or serious emotional disturbance.

(b) The amount designated in subsection (a) shall be distributed to specialty addiction providers that serve the eligible population to provide consumer choice based on outcomes determined by the division.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.37; P.L.143-2011, SEC.27.

IC 12-23-1-10

Cooperation of other agencies

Sec. 10. The division is the state authority primarily responsible for prevention, control, treatment and rehabilitation, education, research, and planning in the field of addictions. All other agencies of state and local government shall cooperate with the division to assist in the performance of the division's functions.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.38.

IC 12-23-1-11

Operation of vehicle under influence of liquor or drugs; laws unaffected; alternative methods of prosecution

Sec. 11. (a) This article does not repeal or modify Indiana law relating to the operation of a vehicle under the influence of liquor or drugs.

(b) IC 12-23-5 and any other related provisions of this article shall be considered to be alternative methods or procedures for the prosecution of alcoholics or drug abusers as criminals.

As added by P.L.2-1992, SEC.17. Amended by P.L.113-2014, SEC.36.

IC 12-23-1-12

Enforcement of article

Sec. 12. (a) The division and the director shall enforce this article.

(b) The division or the director may bring an action at law or in equity to enforce any of the provisions of this article and the circuit and superior courts of the state have jurisdiction to compel or enforce the provisions of this article by prohibitory or mandatory injunction.

As added by P.L.2-1992, SEC.17.

IC 12-23-1-13

Participation in alcohol and drug services program

Sec. 13. Notwithstanding the amendments made to IC 12-7-2-12 by P.L.168-2002, a person participating in an alcohol and drug services program before July 1, 2002, solely as a result of committing an infraction may continue in the program until the person successfully completes the program or is removed for a violation or noncompliance, whichever occurs first.

As added by P.L.220-2011, SEC.274.

IC 12-23-2
Chapter 2. Addiction Services Fund

IC 12-23-2-1
Fund defined

Sec. 1. As used in this chapter, "fund" refers to the addiction services fund established by section 2 of this chapter.
As added by P.L.2-1992, SEC.17.

IC 12-23-2-2
Establishment of fund

Sec. 2. The addiction services fund is established for the deposit of excise taxes on alcoholic beverages as described in IC 7.1-4-11 and taxes on riverboat admissions under IC 4-33-12-6.
As added by P.L.2-1992, SEC.17. Amended by P.L.54-1995, SEC.5.

IC 12-23-2-3
Reversion of funds

Sec. 3. The money in the fund does not revert to any other fund at the close of a state fiscal year but remains in the fund unless the money is appropriated by the general assembly under section 5 of this chapter.
As added by P.L.2-1992, SEC.17.

IC 12-23-2-4
Investment of fund money

Sec. 4. The treasurer of state may invest the money in the fund in the manner provided by law for investing money in the state general fund.
As added by P.L.2-1992, SEC.17.

IC 12-23-2-5
Appropriations by general assembly of fund money; purposes

Sec. 5. The general assembly shall appropriate money from the addiction services fund solely for the purpose of funding programs:

(1) that provide prevention services and intervention and treatment services for individuals who are psychologically or physiologically dependent upon alcohol or other drugs; and

(2) that are for the prevention and treatment of gambling problems.

Programs funded by the addiction services fund must include the creation and maintenance of a toll free telephone line under IC 4-33-12-6(g)(3) to provide the public with information about programs that provide help with gambling, alcohol, and drug addiction problems.
As added by P.L.2-1992, SEC.17. Amended by P.L.54-1995, SEC.6; P.L.1-2009, SEC.107.

IC 12-23-2-6
Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-2-7
Administrative costs associated with use of money from fund; limitation; reimbursing Indiana gaming commission

Sec. 7. (a) For each state fiscal year, the division may not spend more than an amount equal to five percent (5%) of the total amount received by the division from the fund established under section 2 of this chapter for the administrative costs associated with the use of money received from the fund.

(b) The division shall allocate at least twenty-five percent (25%) of the funds derived from the riverboat admissions tax under IC 4-33-12-6 to the prevention and treatment of compulsive gambling.

(c) The division shall reimburse the Indiana gaming commission for the costs incurred in administering a voluntary exclusion program established under the rules of the Indiana gaming commission. The division shall pay the reimbursement from funds derived from the riverboat admissions tax under IC 4-33-12-6.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.39; P.L.54-1995, SEC.7; P.L.143-2003, SEC.4.

IC 12-23-2-8
Allocation of funds for local programs

Sec. 8. (a) Except as provided in subsection (b), for each state fiscal year, the division shall distribute an amount equal to at least thirty-three percent (33%) of the total amount received by the division from the addiction services fund established by section 2 of this chapter during the immediately preceding fiscal year to local programs that provide prevention services and intervention and treatment services for individuals who are:

(1) psychologically or physiologically dependent upon alcohol or other drugs; or

(2) psychologically dependent on gambling.

(b) The amount described in subsection (a) may not be distributed to a county home, a local mental health program established under IC 12-29, or a state institution.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.40; P.L.54-1995, SEC.8.

IC 12-23-3
Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-4

Chapter 4. Reporting Requirements for Service Providers

IC 12-23-4-1

Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-4-2

Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-4-3

Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-4-4

Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-4-5

Alcohol and drug abuse treatment programs; prohibited conduct

Sec. 5. An entity may not maintain, operate, advertise, or conduct an alcoholism or a drug abuse treatment program in Indiana:

(1) in violation of a statute, rule, or regulation; or

(2) in a manner that creates a hazard to the mental or physical health of a participant or to the general public.

As added by P.L.2-1992, SEC.17.

IC 12-23-5

Chapter 5. Conditional Deferment of Judicial Proceedings After Commission of Misdemeanor or Infraction

IC 12-23-5-0.5

Applicability after June 30, 2005

Sec. 0.5. After June 30, 2005, this chapter does not apply to a person who:

(1) holds a commercial driver's license; and

(2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

As added by P.L.219-2003, SEC.10.

IC 12-23-5-1

Judicial notice of rehabilitative or other treatment

Sec. 1. In a criminal proceeding for a misdemeanor or infraction in which:

(1) the use or abuse of alcohol, drugs, or harmful substances is a contributing factor or a material element of the offense; or

(2) the defendant's mental illness other than substance abuse, is a contributing factor;

the court may take judicial notice of the fact that proper early intervention, medical, advisory, or rehabilitative treatment of the defendant is likely to decrease the defendant's tendency to engage in antisocial behavior.

As added by P.L.2-1992, SEC.17. Amended by P.L.224-2003, SEC.125; P.L.85-2004, SEC.4.

IC 12-23-5-2

Deferral of prosecution; order requiring treatment; conditions

Sec. 2. (a) Subject to section 8 of this chapter, before conviction a court may, with the consent of the defendant and the prosecuting attorney, conditionally defer the proceedings described in section 1 of this chapter for up to one (1) year.

(b) The court may do the following:

(1) Order the defendant to satisfactorily complete an alcohol and drug services treatment program if the court makes a determination under section 1(1) of this chapter.

(2) Order the defendant to undergo treatment for the defendant's mental illness if the court makes a determination under section 1(2) of this chapter.

(3) Impose other appropriate conditions upon the defendant.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-3

Violation of condition; resumption of criminal proceedings

Sec. 3. If a defendant violates a condition imposed by the court, the court may order the criminal proceedings to be resumed.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-4
Fulfillment of conditions; dismissal of charges

Sec. 4. Except as provided in section 8 of this chapter, if a defendant fulfills the conditions set by the court, the court shall dismiss the charges against the defendant.
As added by P.L.2-1992, SEC.17.

IC 12-23-5-5
Conditional deferral of charges under IC 9-30-5; suspension of driving privileges; probationary driving privileges; ignition interlock device

Sec. 5. (a) Subject to subsection (b), if a court enters an order conditionally deferring charges that involve a violation of IC 9-30-5, the court shall do the following:

(1) Suspend the defendant's driving privileges for at least ninety (90) days but not more than two (2) years.

(2) Impose other appropriate conditions.

(b) A defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least thirty (30) days under IC 9-30-6-9.

(c) If a defendant has at least one (1) conviction for an offense under IC 9-30-5, the order granting probationary driving privileges under subsection (b) must, in a county that provides for the installation of an ignition interlock device under IC 9-30-8, prohibit the defendant from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(d) If a defendant does not have a prior conviction for an offense under IC 9-30-5, the court may, as an alternative to a license suspension under subsection (a)(1), issue an order prohibiting the defendant from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. An order requiring an ignition interlock device must remain in effect for at least two (2) years but not more than four (4) years.
As added by P.L.2-1992, SEC.17. Amended by P.L.76-2004, SEC.21.

IC 12-23-5-5.5
Offenses; operating motor vehicle without ignition interlock device

Sec. 5.5. (a) A person commits a Class B infraction if the person:

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 5(d) of this chapter.

(b) A person commits a Class B misdemeanor if the person:

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) knows the person is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 5(d) of this chapter.

As added by P.L.76-2004, SEC.22.

IC 12-23-5-6

Misdemeanor convictions; probation; referring defendant to treatment or therapy program

Sec. 6. If a defendant is convicted in a proceeding described in section 1 of this chapter and the court places the defendant on probation, the court may do the following:

(1) Refer the defendant to an alcohol and drug services treatment program if the court makes a determination under section 1(1) of this chapter.

(2) Refer the defendant to an appropriate therapy program if the court makes a determination under section 1(2) of this chapter.

(3) Require the defendant to undergo treatment as a condition of probation.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-7

Exceptions to eligibility for deferral

Sec. 7. Prosecution may be deferred under sections 2 through 5 of this chapter if a defendant has been charged with a misdemeanor or infraction in which the use of alcohol or drugs was a contributing factor or material element of the offense or the defendant's mental illness was a contributing factor, unless at least one (1) of the following exists:

(1) The offense involves death or serious bodily injury.

(2) The defendant has a record of at least two (2) prior convictions of forcible felonies (as defined in IC 35-31.5-2-138).

(3) Other criminal proceedings, not arising out of the same incident, alleging commission of a felony are pending against the defendant.

(4) The defendant is on probation or parole and the appropriate parole or probation authority does not consent to the defendant's participation.

(5) The defendant fails to meet additional eligibility requirements imposed by the court.

As added by P.L.2-1992, SEC.17. Amended by P.L.114-2012, SEC.32.

IC 12-23-5-8

Exception to eligibility for deferral; previous dismissal under this chapter of charges of operating vehicle while intoxicated

Sec. 8. If:

(1) a defendant was previously charged under IC 9-4-1-54 (before its repeal September 1, 1983), IC 9-11-2 (before its

repeal July 1, 1991), or IC 9-30-5; and

(2) the previous charges were dismissed under this chapter;

the individual is not eligible to have subsequent charges under IC 9-30-5 dismissed under this chapter.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-9

Programs in which defendants ordered to participate

Sec. 9. A court may not order a defendant or a convicted individual to complete an alcohol and drug services treatment program under section 2(b)(1) or 6(1) of this chapter unless the court determines that the program in which the individual is to participate is administered by a court under IC 12-23-14 or is certified by the division of mental health and addiction.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.41; P.L.215-2001, SEC.62.

IC 12-23-6
Repealed

(Repealed by P.L.113-2014, SEC.37.)

IC 12-23-7
Repealed

(Repealed by P.L.113-2014, SEC.38.)

IC 12-23-8
Repealed

(Repealed by P.L.113-2014, SEC.39.)

IC 12-23-9

Chapter 9. Voluntary Treatment by Division for Alcoholics

IC 12-23-9-1

Application for treatment; minors

Sec. 1. An alcoholic may apply for voluntary treatment directly to a certified treatment facility. If the proposed patient is a minor or an incapacitated individual, the proposed patient, a parent, a legal guardian, or other legal representative may make the application.

As added by P.L.2-1992, SEC.17.

IC 12-23-9-2

Examination by physician

Sec. 2. An individual who:

(1) comes voluntarily; or

(2) is a minor or an incapacitated individual who is brought to a certified public treatment facility;

shall be examined by a licensed physician as soon as possible.

As added by P.L.2-1992, SEC.17.

IC 12-23-9-3

Admission; referral; transportation

Sec. 3. (a) After a physical examination under section 2 of this chapter, an individual may be admitted as a patient or referred to another health facility.

(b) The referring certified treatment facility shall arrange for the individual's transportation.

As added by P.L.2-1992, SEC.17.

IC 12-23-9-4

Incapacitation by alcohol; length of detention

Sec. 4. (a) An individual who by medical examination is found to be incapacitated by alcohol at the time of admission or to have become incapacitated by alcohol at any time after admission may not be detained at a facility:

(1) after the individual is no longer incapacitated by alcohol; or

(2) if the individual remains incapacitated by alcohol for more than forty-eight (48) hours after admission as a patient.

(b) An individual may consent to remain in a facility as long as the physician in charge believes it is appropriate.

As added by P.L.2-1992, SEC.17. Amended by P.L.113-2014, SEC.40.

IC 12-23-9-5

Notification of family or next of kin

Sec. 5. (a) If an individual is admitted to a certified public treatment facility, the individual's family or next of kin shall be notified as soon as possible.

(b) An adult patient who is not incapacitated may request that there be no notification. The request shall be respected.

As added by P.L.2-1992, SEC.17.

IC 12-23-9-6
Determination by administrator of persons to be admitted; referral to another facility; rules

Sec. 6. (a) The administrator in charge of a certified treatment facility may determine who shall be admitted for treatment.

(b) If an individual is refused admission, the administrator shall refer the individual to another approved public treatment facility for treatment if possible and appropriate.

(c) The administrator's determinations under this section are subject to rules adopted under IC 12-23-1-6(6).

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.43.

IC 12-23-9-7
Patients leaving facility; outpatient and intermediate treatment; assistance

Sec. 7. If a patient receiving inpatient care leaves a certified treatment facility, the patient shall be encouraged to consent to appropriate outpatient or intermediate treatment. If the administrator in charge of the treatment facility believes that the patient is an alcoholic who requires help, the bureau may assist the patient in obtaining supportive services and residential facilities (as defined in IC 12-7-2-165).

As added by P.L.2-1992, SEC.17. Amended by P.L.6-1995, SEC.14.

IC 12-23-9-8
Police officer taking custody of intoxicated individual; immunity from liability

Sec. 8. A police officer who takes custody of an intoxicated individual in good faith for the purpose of delivering the individual to:

(1) a certified treatment facility; or

(2) the alcoholic rehabilitation program provided for in IC 12-23-14;

is immune from civil or criminal liability arising out of a claim for or charge of false arrest or false imprisonment.

As added by P.L.2-1992, SEC.17.

IC 12-23-10
Repealed

(Repealed by P.L.113-2014, SEC.41.)

IC 12-23-11
Repealed

(Repealed by P.L.113-2014, SEC.42.)

IC 12-23-12

Chapter 12. Voluntary and Involuntary Treatment by Division for Minors

IC 12-23-12-1

Notification or consent of parents or guardians; treatment in absence of notification

Sec. 1. A minor who voluntarily seeks treatment for alcoholism, alcohol abuse, or drug abuse from the division or a facility approved by the division may receive treatment without notification or consent of the parents, guardian, or person having control or custody of the minor.

As added by P.L.2-1992, SEC.17.

IC 12-23-12-2

Notification or consent of parents or guardians; discretion of division or facility; immunity from suit

Sec. 2. Notification or consent is at the discretion of the division or a facility approved by the division. A criminal action or civil suit may not be maintained against the division or the division's agents for the reasonable exercise of this discretion.

As added by P.L.2-1992, SEC.17.

IC 12-23-12-3

Court placement

Sec. 3. A minor less than eighteen (18) years of age may be placed under the treatment supervision of the division by the court having jurisdiction over the minor, according to the procedure established for juveniles in such cases or the procedure established by this article if the court having juvenile jurisdiction waives jurisdiction.

As added by P.L.2-1992, SEC.17.

IC 12-23-13

Chapter 13. Miscellaneous Lawful Activity Relating to Controlled Substances

IC 12-23-13-1

Individuals under influence of controlled substance in public place; lawful circumstances

Sec. 1. It is lawful for an individual to be under the influence of a controlled substance in a public place if the individual can present positive proof of the following:

(1) The individual is under the care of the division, a community mental health center, a managed care provider, or a licensed physician.

(2) The controlled substance constitutes medical treatment authorized by state and federal law.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.44.

IC 12-23-13-2

Prescribing, dispensing, or administering controlled substances for treatment of drug abuse; conditions

Sec. 2. It is lawful to prescribe, dispense, or administer controlled substances for the treatment of drug abuse if the following conditions are met:

(1) The controlled substances are used for the treatment or maintenance of a drug abuser.

(2) The treatment or maintenance is medically indicated.

(3) The treatment or maintenance is prescribed by a physician as a part of a rehabilitation program approved by the director and dispensed in compliance with the regulations for the dispensing of controlled substances.

As added by P.L.2-1992, SEC.17.

IC 12-23-14

Chapter 14. Court Established Alcohol and Drug Services Program

IC 12-23-14-1

Authority to establish program

Sec. 1. A court having misdemeanor jurisdiction in a city or county may establish an alcohol and drug services program.

As added by P.L.2-1992, SEC.17.

IC 12-23-14-2

Operation of program by court or under private contract

Sec. 2. The court may establish an alcohol and drug services program under the court's operation or under private contract.

As added by P.L.2-1992, SEC.17.

IC 12-23-14-3

Rules and special orders

Sec. 3. The court may establish uniform rules and may make special orders and rules as necessary.

As added by P.L.2-1992, SEC.17. Amended by P.L.168-2002, SEC.4.

IC 12-23-14-4

Individuals eligible; jurisdiction of court

Sec. 4. Except as provided in section 5 of this chapter, an alcohol and drug services program and accompanying services and treatment facilities shall be open only to the individuals over whom the court has jurisdiction.

As added by P.L.2-1992, SEC.17.

IC 12-23-14-5

Individuals eligible; referrals

Sec. 5. The court may agree to provide the services and facilities of a program for individuals referred from another court, a probation department, the department of correction, the Federal Bureau of Prisons, the division, the prosecuting attorney's office, or pretrial services.

As added by P.L.2-1992, SEC.17. Amended by P.L.192-2007, SEC.8.

IC 12-23-14-6

Range of services provided

Sec. 6. (a) A program may provide for eligible individuals a range of necessary intervention services, including the following:

(1) Screening for eligibility and other appropriate services.
(2) Clinical assessment.
(3) Education.
(4) Referral.
(5) Service coordination and case management.

(b) A program that is eligible under section 7 of this chapter may also provide a range of necessary treatment and rehabilitation

services, including the following:

(1) Emergency services.

(2) Detoxification.

(3) Counseling.

(4) Rehabilitative care.

As added by P.L.2-1992, SEC.17. Amended by P.L.168-2002, SEC.5.

IC 12-23-14-7

Direct treatment or rehabilitation services; inadequacy of existing community resources

Sec. 7. A program may not provide direct treatment or rehabilitation services unless the program is certified by the division and the court determines that existing community resources are inadequate to respond satisfactorily to the demand for the services from the court.

As added by P.L.2-1992, SEC.17. Amended by P.L.122-1997, SEC.2.

IC 12-23-14-8

Establishment in county of alcohol and drug services program; statement from Indiana judicial center; approval of legislative and appropriating body

Sec. 8. Before an alcohol and drug services program may be established in a county, the court must do the following:

(1) Have a written statement from the Indiana judicial center approving the establishment of the program and the plans for operation before the court may submit the petition to the legislative and appropriating body for approval.

(2) Obtain the approval of the legislative and appropriating body from which the court derives the court's money.

As added by P.L.2-1992, SEC.17. Amended by P.L.122-1997, SEC.3.

IC 12-23-14-9

Petition for approval

Sec. 9. The court must submit a petition for approval containing the following:

(1) A full description of a proposed program.

(2) A budget for the program, supported by statistics showing the total fines and costs collected by the court in the most recent year.

(3) Details on the implementation of the program.

(4) If the program is to be operated through a private contractor, a reference file on the contractor, including the contractor's most recent financial statement and statements of the qualifications of program staff associated with the contractor.

As added by P.L.2-1992, SEC.17.

IC 12-23-14-10

Approval of program operated through private contractor; drafting of contract

Sec. 10. (a) If the legislative and appropriating body approves an

alcohol and drug services program and the operation through a private contractor, the court may direct the appropriate attorney to draft a contract governing the rights and duties of the contractor, the court, and the appropriating authority.

(b) The court is responsible for the administration of the program.
As added by P.L.2-1992, SEC.17.

IC 12-23-14-11
Program executive director; assistants and clerks

Sec. 11. The court may, subject to the approval of the legislative and appropriating body, appoint a full-time executive director of a program and assistants and clerks that are necessary.
As added by P.L.2-1992, SEC.17.

IC 12-23-14-12
Program employees and contractors; duties; assignment by court

Sec. 12. Program employees or contractors shall perform duties the court assigns, including the following:

(1) Providing places for the program and the program's services.
(2) Providing intervention, treatment, and rehabilitation services for eligible individuals.
(3) Compiling information and statistics on the program's activities.
(4) Reporting periodically to the court on program activities.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.45.

IC 12-23-14-13
Powers of Indiana judicial center

Sec. 13. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established by IC 33-38-9-3.

(b) As used in this section, "effective date" means the date established by the board after which minimum employment standards are required for persons employed in court drug and alcohol programs.

(c) A program established under this chapter is subject to the regulatory powers of the Indiana judicial center established by IC 33-38-9-4.

(d) With regard to alcohol and drug services programs established under this chapter, the Indiana judicial center may do the following:

(1) Ensure that programs comply with rules adopted under this section and applicable federal regulations.
(2) Revoke the authorization of a program upon a determination that the program does not comply with rules adopted under this section and applicable federal regulations.
(3) Make agreements and contracts with:
(A) another department, authority, or agency of the state;
(B) another state;
(C) the federal government;
(D) a state educational institution or a private postsecondary

educational institution; or

(E) a public or private agency;

to effectuate the purposes of this chapter.

(4) Directly, or by contract, approve and certify programs established under this chapter.

(5) Require, as a condition of operation, that each program created or funded under this chapter be certified according to rules established by the Indiana judicial center.

(6) Adopt rules to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of alcohol and drug services programs.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be employed by or to provide services to a court alcohol and drug services program. If the board adopts qualifications under this subsection:

(1) the board shall establish an effective date after which any person employed by a court alcohol and drug services program must meet the minimum qualifications adopted under this subsection; and

(2) the minimum employment qualifications adopted under this subsection do not apply to a person who is employed:

(A) by a certified court alcohol and drug program before the effective date; or

(B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to the court alcohol and drug program advisory committee or the Indiana judicial center.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.46; P.L.122-1997, SEC.4; P.L.113-2001, SEC.2; P.L.98-2004, SEC.87; P.L.2-2007, SEC.165.

IC 12-23-14-14

Program costs; payment; city or county general fund; user fee fund; compensation of employees and contractors

Sec. 14. (a) The costs of an alcohol and drug services program established under this chapter shall be paid out of the city general fund or the county general fund and may be supplemented by payment from the user fee fund upon appropriation made under IC 33-37-8.

(b) The court shall fix the compensation of employees and contractors.

As added by P.L.2-1992, SEC.17. Amended by P.L.98-2004, SEC.88.

IC 12-23-14-15

Financial assistance; private and governmental sources

Sec. 15. A program may apply for and receive the following:

(1) Gifts, bequests, and donations from private sources.

(2) Grant and contract money from governmental sources.

(3) Other forms of financial assistance approved by the court to

supplement the budget.
As added by P.L.2-1992, SEC.17.

IC 12-23-14-16
Fees charged for program; fee schedule; maximum fee; deposit of fees

Sec. 16. (a) The court may require an eligible individual to pay a fee for a service of a program.

(b) If a fee is required, the court shall adopt by court rule a schedule of fees to be assessed for program services.

(c) The fee for program services, excluding reasonable fees for education or treatment and rehabilitation services, may not exceed four hundred dollars ($400).

(d) A fee collected under this chapter shall be deposited in the city or county user fee fund.
As added by P.L.2-1992, SEC.17. Amended by P.L.113-2001, SEC.3; P.L.136-2012, SEC.6.

IC 12-23-14-17
Indiana judicial center drug and alcohol programs fund; grants

Sec. 17. (a) The Indiana judicial center drug and alcohol programs fund is established for the purpose of administering, certifying, and supporting alcohol and drug services programs under this chapter. The fund shall be administered by the Indiana judicial center established by IC 33-38-9-4.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of the fiscal year does not revert to the state general fund.

(d) The Indiana judicial center may award a grant from the fund to a probation department or a community corrections program to increase substance abuse treatment access for individuals on probation or individuals placed in a community corrections program who are under court supervision and who have been diagnosed with a substance abuse disorder or co-occurring disorder.

(e) To receive a grant under this section, a probation department or community corrections program and the agency that will be providing treatment if the grant is approved must submit an application to the Indiana judicial center:

(1) on a form; and

(2) in the manner;

prescribed by the Indiana judicial center.

(f) The Indiana judicial center shall determine the amount of a grant awarded under this section in consultation with the division of mental health and addiction and the local probation department or community corrections program.

(g) Mental health and substance abuse counseling provided by grants under this section must be contracted for with a certified mental health or addiction provider as determined by the division of

mental health and addiction.
As added by P.L.122-1997, SEC.5. Amended by P.L.98-2004, SEC.89; P.L.158-2013, SEC.182.

IC 12-23-14-18
Chemical tests; costs; reporting of chemical test results

Sec. 18. (a) As a condition of participation in an alcohol and drug services program, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the program. A participant is liable for the costs of all chemical tests required under this section, regardless of whether the costs are paid to the court alcohol and drug services program or the laboratory.

(b) A laboratory that performs a chemical test under this section shall report the results of the test to the program.
As added by P.L.168-2002, SEC.6.

IC 12-23-14-19
Right to participate; immunity from liability

Sec. 19. (a) A person does not have a right to participate in an alcohol and drug services program under this chapter.

(b) The director and members of the professional and administrative staff of an alcohol and drug services program who perform duties in good faith under this chapter are immune from civil liability for:

(1) acts or omissions in providing services under this chapter; and

(2) the reasonable exercise of discretion in determining eligibility to participate in an alcohol and drug services program.

As added by P.L.168-2002, SEC.7.

IC 12-23-14.5
Repealed

(Repealed by P.L.108-2010, SEC.10.)

IC 12-23-15

Chapter 15. Citations for Public Intoxication

IC 12-23-15-1

Arrest for public intoxication; options available

Sec. 1. A police officer or peace officer making an arrest for public intoxication may do the following:

(1) If an individual is unmanageable or is causing damage to the individual or others, take the individual into custody for criminal processing in the city lock-up or county jail.

(2) If an individual is manageable and not causing damage to the individual or others, issue a citation and do either of the following:

(A) If within reasonable proximity, take the individual to any of the following:

(i) The individual's home.

(ii) The home of a relative of the individual.

(iii) A responsible person who is competent and willing to provide care, assistance, and treatment.

(B) Take the individual to an approved public or private treatment facility or to the city lock-up or county jail if no facility is available.

As added by P.L.2-1992, SEC.17.

IC 12-23-15-2

Individuals taken to city lock-up or county jail; evaluation of nonalcoholic factors contributing to intoxicated appearance

Sec. 2. An individual to be taken to the city lock-up or county jail shall be evaluated at the earliest possible time for nonalcoholic factors that may be contributing to the appearance of intoxication.

As added by P.L.2-1992, SEC.17.

IC 12-23-15-3

Form and contents of citation

Sec. 3. A citation written for the purpose of the offense of public intoxication must contain the following:

(1) The name of the individual arrested.

(2) The place where arrested.

(3) The name of the arresting officer.

(4) The time of arrest.

(5) The time and place for trial.

(6) Any other pertinent information thought necessary by the enforcement agency under whose jurisdiction the intoxicated individual was arrested.

As added by P.L.2-1992, SEC.17.

IC 12-23-16

Chapter 16. Program on Drug Abuse

IC 12-23-16-1

Symptoms and conditions constituting drug abuse; determination by director

Sec. 1. For the purpose of this chapter, the director, in accordance with sound medical and psychiatric knowledge, may determine what symptoms and conditions must exist to say that an individual abuses drugs.

As added by P.L.2-1992, SEC.17.

IC 12-23-16-2

Powers and duties of division

Sec. 2. The division may do the following:

(1) Provide for the promotion, establishment, coordination, and conduct of unified local programs of prevention, diagnosis, treatment, and rehabilitation in the field of drug abuse in cooperation with federal, state, local, and private agencies.

(2) Survey and analyze the state's needs and formulate a comprehensive plan for the long range development of local community treatment programs through the utilization of state, federal, local, and private resources for the prevention and control of drug abuse.

(3) With the approval of the budget agency, make agreements concerning local community treatment programs, including agreements with public and private agencies, to do or cause to be done whatever is necessary, desirable, or proper to carry out the purposes and objectives of this chapter within the amounts made available by appropriation, gift, grant, devise, or bequest.

(4) Establish and operate local community rehabilitation centers and other local facilities that the division considers necessary or desirable for the care, treatment, and rehabilitation of drug abusers.

(5) Approve facilities and services for the local community treatment, care, or rehabilitation of drug abusers.

(6) With the approval of the budget agency, accept on behalf of the state a gift, grant, devise, or bequest.

(7) Adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.2-1992, SEC.17.

IC 12-23-16-3

Drug abuse treatment and rehabilitation centers; establishment

Sec. 3. The division may establish drug abuse treatment and rehabilitation units:

(1) independently within local communities;

(2) as part of the community mental health plan; or

(3) in cooperation with local authorities or associations for the purpose of study, rehabilitation, and treatment necessary for the control and prevention of drug abuse.

As added by P.L.2-1992, SEC.17.

IC 12-23-17

Chapter 17. Institution for Alcohol and Drug Abusers

IC 12-23-17-1

Alcohol and drug abusers; separate state institution; establishment; transfer of programs, records, and property

Sec. 1. With the approval of the governor, the director may do the following:

(1) Establish a separate state institution for the purposes of observing, diagnosing, or treating alcohol abusers or drug abusers.

(2) Transfer any part of the programs, records, and property at another state institution administered by the division relating to the observation, diagnosis, and treatment of alcohol abusers or drug abusers and the unused property at the other state institution to the state institution established under subdivision (1).

As added by P.L.2-1992, SEC.17.

IC 12-23-17-2

Administration of state institution

Sec. 2. The division shall administer and operate a state institution established under section 1 of this chapter.

As added by P.L.2-1992, SEC.17.

IC 12-23-17-3

Transfer of programs, records, and property; transfer of related appropriations

Sec. 3. If the programs, records, and property of a state institution are transferred under section 1(2) of this chapter, the state board of finance shall, under IC 4-9.1-1-7 and IC 4-13-2-23, transfer an appropriation to the state institution related to the transferred programs, records, and property to the state institution established under section 1 of this chapter.

As added by P.L.2-1992, SEC.17.

IC 12-23-18

Chapter 18. Methadone Diversion Control and Oversight Program

IC 12-23-18-0.5

Opioid treatment program; requirements for operation

Sec. 0.5. (a) An opioid treatment program shall not operate in Indiana unless:

(1) the opioid treatment program is specifically approved and the opioid treatment facility is certified by the division; and

(2) the opioid treatment program is in compliance with state and federal law.

(b) Separate specific approval and certification under this chapter is required for each location at which an opioid treatment program is operated.

As added by P.L.116-2008, SEC.2. Amended by P.L.1-2009, SEC.108.

IC 12-23-18-1

Rules

Sec. 1. (a) Subject to federal law and consistent with standard medical practice in opioid treatment of drug abuse, the division shall adopt rules under IC 4-22-2 to establish and administer an opioid treatment diversion control and oversight program to identify individuals who divert opioid treatment medications from legitimate treatment use and to terminate the opioid treatment of those individuals.

(b) Rules adopted under subsection (a) must include provisions relating to the following matters concerning opioid treatment programs and patients who receive opioid treatment:

(1) Regular clinic attendance by the patient.

(2) Specific counseling requirements for the opioid treatment program.

(3) Serious behavior problems of the patient.

(4) Stable home environment of the patient.

(5) Safe storage capacity of opioid treatment medications within the patient's home.

(6) Medically recognized testing protocols to determine legitimate opioid treatment medication use.

(7) The opioid treatment program's medical director and administrative staff responsibilities for preparing and implementing a diversion control plan.

As added by P.L.11-2003, SEC.2. Amended by P.L.116-2008, SEC.3.

IC 12-23-18-2

Diversion control

Sec. 2. (a) Not later than February 28 of each year, each opioid treatment program must submit to the division a diversion control plan that:

(1) meets the requirements of section 1 of this chapter; and

(2) includes in the opioid treatment program's diversion control plan the program's drug testing procedure for testing a patient during the patient's treatment by the program as required by section 2.5 of this chapter.

(b) Not later than May 1 of each year, the division shall review and approve a plan submitted under subsection (a).

(c) If the division denies a plan submitted under subsection (a), the opioid treatment program must submit another plan not later than sixty (60) days after the denial of the plan.

As added by P.L.11-2003, SEC.2. Amended by P.L.116-2008, SEC.4.

IC 12-23-18-2.5

Drug testing

Sec. 2.5. (a) An opioid treatment program must periodically and randomly test, including before receiving treatment, a patient for the following during the patient's treatment by the program:

(1) Methadone.

(2) Cocaine.

(3) Opiates.

(4) Amphetamines.

(5) Barbiturates.

(6) Tetrahydrocannabinol.

(7) Benzodiazepines.

(8) Any other suspected or known drug that may have been abused by the patient.

(b) If a patient tests positive under a test described in subsection (a) for:

(1) a controlled substance other than a drug for which the patient has a prescription or that is part of the patient's treatment plan at the opioid treatment program; or

(2) an illegal drug other than the drug that is part of the patient's treatment plan at the opioid treatment program;

the opioid treatment program and the patient must comply with the requirements under subsection (c).

(c) If a patient tests positive under a test for a controlled substance or illegal drug that is not allowed under subsection (a), the following conditions must be met:

(1) The opioid treatment program must refer the patient to the onsite physician for a clinical evaluation that must be conducted not more than ten (10) days after the date of the patient's positive test. The physician shall consult with medical and behavioral staff to conduct the evaluation. The clinical evaluation must recommend a remedial action for the patient that may include discharge from the opioid treatment program or amending the treatment plan to require a higher level of supervision.

(2) The opioid treatment program may not allow the patient to take any opioid treatment medications from the treatment facility until the patient has completed a clinical assessment under subdivision (1) and has passed a random test. The patient

must report to the treatment facility daily, except when the facility is closed, until the onsite physician, after consultation with the medical and behavioral staff, determines that daily treatment is no longer necessary.

(3) The patient must take a weekly random test until the patient passes a test under subsection (a).

(d) An opioid treatment program must conduct all tests required under this section in an observed manner to assure that a false sample is not provided by the patient.

As added by P.L.116-2008, SEC.5. Amended by P.L.131-2014, SEC.2.

IC 12-23-18-3

Opioid treatment program fees

Sec. 3. (a) By May 15 of each year, each opioid treatment program shall submit to the division a fee that is:

(1) an amount established by the division by rule under IC 4-22-2;

(2) not more than necessary to recover the costs of administering this chapter; and

(3) not more than seventy-five dollars ($75) for each opioid treatment program patient who was treated by the opioid treatment program during the preceding calendar year.

(b) The fee collected under subsection (a) shall be deposited in the fund.

As added by P.L.11-2003, SEC.2. Amended by P.L.116-2008, SEC.6.

IC 12-23-18-4

Opioid treatment program fund

Sec. 4. (a) As used in this section, "fund" means the opioid treatment program fund established under subsection (b).

(b) The opioid treatment program fund is established to implement this chapter. The fund shall be administered by the division.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest money in the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of the state fiscal year does not revert to the state general fund.

As added by P.L.11-2003, SEC.2. Amended by P.L.116-2008, SEC.7.

IC 12-23-18-5

Standards for operation; diversion control plans; annual compliance assessment; report

Sec. 5. (a) The division shall adopt rules under IC 4-22-2 to establish the following:

(1) Standards for operation of an opioid treatment program in Indiana, including the following requirements:

(A) An opioid treatment program shall obtain prior authorization from the division for any patient receiving

more than seven (7) days of opioid treatment medications at one (1) time and the division may approve the authorization only under the following circumstances:

(i) A physician licensed under IC 25-22.5 has issued an order for the opioid treatment medication.

(ii) The patient has not tested positive under a drug test for a drug for which the patient does not have a prescription for a period of time set forth by the division.

(iii) The opioid treatment program has determined that the benefit to the patient in receiving the take home opioid treatment medication outweighs the potential risk of diversion of the take home opioid treatment medication.

(B) Minimum requirements for a licensed physician's regular:

(i) physical presence in the opioid treatment facility; and

(ii) physical evaluation and progress evaluation of each opioid treatment program patient.

(C) Minimum staffing requirements by licensed and unlicensed personnel.

(D) Clinical standards for the appropriate tapering of a patient on and off of an opioid treatment medication.

(2) A requirement that, not later than February 28 of each year, a current diversion control plan that meets the requirements of 21 CFR Part 291 and 42 CFR Part 8 be submitted for each opioid treatment facility.

(3) Fees to be paid by an opioid treatment program for deposit in the fund for annual certification under this chapter as described in section 3 of this chapter.

The fees established under this subsection must be sufficient to pay the cost of implementing this chapter.

(b) The division shall conduct an annual onsite visit of each opioid treatment program facility to assess compliance with this chapter.

(c) Not later than April 1 of each year, the division shall report to the general assembly in electronic format under IC 5-14-3 the number of prior authorizations that were approved under subsection (a)(1)(A) in the previous year and the time frame for each approval.

As added by P.L.11-2003, SEC.2. Amended by P.L.116-2008, SEC.8; P.L.131-2014, SEC.3.

IC 12-23-18-5.5

Prohibition of new opioid treatment program approval

Sec. 5.5. The division may not grant specific approval to be a new opioid treatment program. This section does not apply to applications for new opioid treatment programs pending prior to March 1, 2007.

As added by P.L.210-2007, SEC.1. Amended by P.L.116-2008, SEC.9.

IC 12-23-18-5.6

Central registry

Sec. 5.6. (a) The division shall establish a central registry to

maintain information concerning each patient served by an opioid treatment program.

(b) An opioid treatment program shall, at least monthly, provide to the division information required by the division concerning patients currently served by the opioid treatment program.

(c) Information that could be used to identify an opioid treatment program patient and that is:

(1) contained in; or

(2) provided to the division and related to;

the central registry is confidential.

As added by P.L.116-2008, SEC.10.

IC 12-23-18-5.7
Repealed

(Repealed by P.L.28-2012, SEC.17.)

IC 12-23-18-5.8
Violations; penalties

Sec. 5.8. (a) The director of the division may take any of the following actions based on any grounds described in subsection (b):

(1) Issue a letter of correction.

(2) Reinspect an opioid treatment program facility.

(3) Deny renewal of, or revoke, any of the following:

(A) Specific approval to operate as an opioid treatment program.

(B) Certification of an opioid treatment facility.

(4) Impose a civil penalty in an amount not to exceed ten thousand dollars ($10,000).

(b) The director of the division may take action under subsection (a) based on any of the following grounds:

(1) Violation of this chapter or rules adopted under this chapter.

(2) Permitting, aiding, or abetting the commission of any illegal act in an opioid treatment program facility.

(3) Conduct or practice found by the director to be detrimental to the welfare of an opioid treatment program patient.

(c) IC 4-21.5 applies to an action under this section.

As added by P.L.116-2008, SEC.12.

IC 12-23-18-6
Repealed

(Repealed by P.L.116-2008, SEC.13.)

IC 12-23-18-7
Adoption of rules establishing standards and protocols; use of alternative medication for treatment; explanation of side effects

Sec. 7. (a) The division shall adopt rules under IC 4-22-2 to establish standards and protocols for opioid treatment programs to do the following:

(1) Assess new opioid treatment program patients to determine the most effective opioid treatment medications to start the

patient's opioid treatment.

(2) Ensure that each patient voluntarily chooses maintenance treatment and that relevant facts concerning the use of opioid treatment medications are clearly and adequately explained to the patient.

(3) Have appropriate opioid treatment program patients who are receiving methadone for opioid treatment move to receiving other approved opioid treatment medications.

(b) An opioid treatment program shall follow the standards and protocols adopted under subsection (a) for each opioid treatment program patient.

(c) Subject to subsection (a), an opioid treatment program may use any of the following medications as an alternative for methadone for opioid treatment:

(1) Buprenorphine.

(2) Buprenorphine combination products containing naloxone.

(3) Any other medication that has been approved by:

(A) the federal Food and Drug Administration for use in the treatment of opioid addiction; and

(B) the division under subsection (e).

(d) Before starting a patient on a new opioid treatment medication, the opioid treatment program shall explain to the patient the potential side effects of the new medication.

(e) The division may adopt rules under IC 4-22-2 to provide for other medications as alternatives to methadone that may be used under subsection (a).

As added by P.L.131-2014, SEC.4.

IC 12-23-18-8

"Dispense"; provision of information to division; annual report

Sec. 8. (a) As used in this section, "dispense" means to deliver a controlled substance to an ultimate user.

(b) Subject to the federal patient confidentiality requirements under 42 CFR Part 2, when an opioid treatment program dispenses a controlled substance designated by the Indiana board of pharmacy under IC 35-48-2-5 through 35-48-2-10, the opioid treatment program shall provide the following information upon request from the division:

(1) The medications dispensed by the program.

(2) The medication delivery process, which includes whether the medication was in liquid, film, or another form.

(3) The number of doses dispensed of each medication.

(4) The dosage quantities for each medication.

(5) The number of patients receiving take home medications.

(6) The number of days of supply dispensed.

(7) Patient demographic information for each medication, including gender, age, and time in treatment.

(8) The dispenser's United States Drug Enforcement Agency registration number.

(c) An opioid treatment program shall provide the information

required under this section to the division in a manner prescribed by the division.

(d) The division shall annually report the information collected under this section to the legislative council in an electronic format under IC 5-14-6 not later than October 1.

As added by P.L.131-2014, SEC.5.

IC 12-24

ARTICLE 24. STATE INSTITUTIONS

IC 12-24-1

Chapter 1. Administration of State Institutions

IC 12-24-1-1
Repealed

(Repealed by P.L.188-2013, SEC.11.)

IC 12-24-1-2
Repealed

(Repealed by P.L.146-1993, SEC.3.)

IC 12-24-1-3
Director of division of mental health and addiction; contracting power; limitations on closure and operation of certain facilities in Evansville

Sec. 3. (a) The director of the division of mental health and addiction has administrative control of and responsibility for the following state institutions:

(1) Evansville State Hospital.
(2) Evansville State Psychiatric Treatment Center for Children.
(3) Larue D. Carter Memorial Hospital.
(4) Logansport State Hospital.
(5) Madison State Hospital.
(6) Richmond State Hospital.
(7) Any other state owned or operated mental health institution.

(b) Subject to the approval of the director of the budget agency and the governor, the director of the division of mental health and addiction may contract for the management and clinical operation of Larue D. Carter Memorial Hospital.

(c) Before July 1, 2014, the Evansville State Psychiatric Treatment Center for Children and the Evansville State Hospital may not be closed, merged into one (1) facility, or merged with another facility unless:

(1) authorized by an enactment of the general assembly; or
(2) recommended by the council established by section 3.5 of this chapter before January 1, 2014.

As added by P.L.2-1992, SEC.18. Amended by P.L.215-2001, SEC.64; P.L.192-2002(ss), SEC.154; P.L.141-2006, SEC.62; P.L.229-2011, SEC.147.

IC 12-24-1-3.5
Expired

(Expired 12-31-2013 by P.L.229-2011, SEC.148.)

IC 12-24-1-4
Transfer of patients between state institutions

Sec. 4. A director, or the directors of the affected state

institutions, may do the following:

(1) Transfer a patient with a developmental disability between state institutions.

(2) In consultation with the patient's treating physician, transfer a patient with a mental illness between state institutions.

As added by P.L.2-1992, SEC.18. Amended by P.L.99-2007, SEC.116.

IC 12-24-1-5

Exercise of power by director and superintendent restricted

Sec. 5. (a) If this article grants a director a power, the director may exercise the power with respect to any state institution over which the director has administrative control and responsibility.

(b) If this article grants a superintendent a power, the superintendent may exercise the power only with respect to the state institution under the administrative control of the superintendent.

As added by P.L.2-1992, SEC.18.

IC 12-24-1-6

Construction of terms

Sec. 6. For purposes of this article, the following apply:

(1) An official of a state institution is also considered an official of the state institution's division.

(2) An employee of a state institution is also considered an employee of the state institution's division.

(3) The property of a state institution is also considered the property of the state institution's division.

(4) A rule of a state institution is also considered a rule of the state institution's division.

As added by P.L.2-1992, SEC.18.

IC 12-24-1-7

Repealed

(Repealed by P.L.28-2012, SEC.18.)

IC 12-24-1-8

Notice regarding requests for names of nursing personnel or direct care staff

Sec. 8. (a) Each state institution shall post a notice that a resident, the legal representative of the resident, or another individual designated by the resident may request from the individual in charge of each shift information that designates the names of all nursing personnel or direct care staff on duty by job classification for the:

(1) wing;

(2) unit; or

(3) other area as routinely designated by the state institution;

where the resident resides.

(b) The notice required under subsection (a) must meet the following conditions:

(1) Be posted in a conspicuous place that is readily accessible

to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the superintendent of the state institution; and

(B) toll free telephone number for filing complaints with the division that is administratively in charge of the state institution.

(4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the information described in subsection (a) from the individual in charge of each shift, the resident, the legal representative of the resident, or other individual designated by the resident may do any of the following:

(A) Contact the superintendent of the state institution.

(B) File a complaint with the division that is administratively in charge of the state institution by using the division's toll free telephone number.

(c) The director of the:

(1) division of disability and rehabilitative services; and

(2) division of mental health and addiction;

may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.108-2000, SEC.1. Amended by P.L.215-2001, SEC.66; P.L.141-2006, SEC.63.

IC 12-24-1-9

Semiannual statistical reports

Sec. 9. (a) A director shall produce a statistical report semiannually for each state institution that is under the director's administrative control. The statistical report must list the following information:

(1) The number of total hours worked in the state institution by each classification of personnel for which the director maintains data.

(2) The resident census of the state institution for which the director maintains data.

(b) The director shall provide a compilation of the statistical reports prepared under subsection (a) to the following:

(1) Each state institution that is under the director's administrative control.

(2) The adult protective services unit under IC 12-10-3.

(c) Each state institution shall:

(1) make available in a place that is readily accessible to residents and the public a copy of the compilation of statistical reports provided under this section; and

(2) post a notice that a copy of the compilation of statistical reports may be requested from the individual in charge of each shift.

(d) The notice required under subsection (c)(2) must meet the

following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the superintendent of the state institution; and

(B) toll free telephone number for filing complaints with the division that is administratively in charge of the state institution.

(4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the compilation of statistical reports from the individual in charge of each shift, the resident, the legal representative of the resident, or other individual designated by the resident may do any of the following:

(A) Contact the superintendent of the state institution.

(B) File a complaint with the division that is administratively in charge of the state institution by using the division's toll free telephone number.

(e) The director of the:

(1) division of disability and rehabilitative services; and

(2) division of mental health and addiction;

may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.108-2000, SEC.2. Amended by P.L.215-2001, SEC.67; P.L.141-2006, SEC.64.

IC 12-24-1-10
Repealed

(Repealed by P.L.141-2006, SEC.115.)

IC 12-24-2

Chapter 2. Superintendents of State Institutions

IC 12-24-2-1

Administrative control

Sec. 1. A state institution is under the administrative control of a superintendent appointed under section 2 of this chapter.

As added by P.L.2-1992, SEC.18.

IC 12-24-2-2

Appointment

Sec. 2. Subject to the approval of the governor, the director of the division shall appoint the superintendent of a state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-2-3

Qualifications; rules

Sec. 3. The director of the division may adopt rules under IC 4-22-2 to prescribe the qualifications of a superintendent of a state institution under the control of the division. A superintendent must possess the prescribed qualifications.

As added by P.L.2-1992, SEC.18.

IC 12-24-2-4

Term

Sec. 4. A superintendent serves at the pleasure of the director.

As added by P.L.2-1992, SEC.18. Amended by P.L.28-2012, SEC.19.

IC 12-24-2-5

Administrative responsibility

Sec. 5. The superintendent of a state institution is administratively responsible to the director.

As added by P.L.2-1992, SEC.18.

IC 12-24-2-6

Repealed

(Repealed by P.L.28-2012, SEC.20.)

IC 12-24-2-7

Powers

Sec. 7. A superintendent may do the following:

(1) Administer oaths.

(2) Take depositions.

(3) Certify to official acts.

As added by P.L.2-1992, SEC.18.

IC 12-24-2-8

Prescribing tobacco cessation devices

Sec. 8. A physician licensed under IC 25-22.5 may prescribe tobacco cessation devices as is medically necessary for a resident of

a state institution.
As added by P.L.110-1997, SEC.2. Amended by P.L.28-2012, SEC.21; P.L.141-2012, SEC.4.

IC 12-24-2-9
Admissions; Evansville state psychiatric treatment center for children

Sec. 9. (a) Notwithstanding any other law, an individual shall be admitted to the Evansville State Psychiatric Treatment Center for Children if the decision to admit the individual is approved by:

(1) the individual's gatekeeper; and

(2) the Evansville State Psychiatric Treatment Center for Children's admission committee, which must consist of at least the following individuals:

(A) The superintendent.

(B) The medical director.

(C) The clinical director.

(D) The director of nursing.

(b) The division of mental health and addiction shall encourage and facilitate the placement of appropriate patients at the Evansville State Psychiatric Treatment Center for Children. A state operated facility must be considered before referring a patient to an out-of-state treatment center. The appropriateness of admission to the Evansville State Psychiatric Treatment Center for Children is determined when both the individual's gatekeeper and the Evansville State Psychiatric Treatment Center for Children's admission committee agree that the individual meets admission criteria and that admission to the Evansville State Psychiatric Treatment Center for Children is the least restrictive treatment option available to meet the individual's psychiatric needs. An administrator of the division of mental health and addiction may not make a determination of the appropriateness of admission to the Evansville State Psychiatric Treatment Center for Children unless the individual's gatekeeper and the admissions committee fail to reach agreement on the appropriateness of the referral. If the gatekeeper and the admissions committee fail to reach an agreement on the appropriateness of the referral, the decision of the division of mental health and addiction is final.
As added by P.L.192-2002(ss), SEC.155.

IC 12-24-3

Chapter 3. Employees of State Institutions

IC 12-24-3-1

Repealed

(Repealed by P.L.6-2012, SEC.98.)

IC 12-24-3-2

Persons convicted of certain sex offenses disqualified

Sec. 2. To provide greater security for patients, visitors, and employees, the division may not employ in a state institution an individual who has been convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4).

(5) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A or Class B felony (for a crime committed before July 1, 2014) or a Level 1 felony, Level 2 felony, or Level 4 felony (for a crime committed after June 30, 2014).

As added by P.L.2-1992, SEC.18. Amended by P.L.228-2001, SEC.3; P.L.214-2013, SEC.14; P.L.158-2013, SEC.183; P.L.168-2014, SEC.29.

IC 12-24-3-3

Bonds and crime policies

Sec. 3. (a) As used in this section, "employee" includes the superintendent of an institution.

(b) The director may require an employee of a state institution to furnish a bond in an amount determined by the director.

(c) A bond required by this section must be:

(1) payable to the state;

(2) conditioned upon the faithful performance of the employee's duties;

(3) subject to the approval of the insurance commissioner; and

(4) filed in the office of the secretary of state.

(d) The premiums for a bond required by this section shall be paid from the money of the division.

(e) The division may secure a standard form blanket bond or crime insurance policy endorsed to include faithful performance that covers all or any part of the employees of the division. A blanket bond or crime insurance policy secured by the division under this subsection must be in an amount of at least fifty thousand dollars ($50,000).

(f) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

As added by P.L.2-1992, SEC.18. Amended by P.L.49-1995, SEC.9; P.L.28-2012, SEC.22.

IC 12-24-3-4

Repealed

(Repealed by P.L.100-2012, SEC.33.)

IC 12-24-3-5
Employee wage payment arrangements

Sec. 5. (a) Notwithstanding IC 22-2-5-2, the state institution and:

(1) an employee if there is no representative described under subdivision (2) or (3) for that employee;

(2) the exclusive representative of its certificated employees with respect to those employees; or

(3) a labor organization representing its noncertificated employees with respect to those employees;

may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

(1) using equal installments or any other method; and

(2) over:

(A) all or part of that school year; or

(B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

(1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or

(2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(d) Absent an agreement under subsection (a), the state institution remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned and unpaid.

(g) Employment with the state institution may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.

As added by P.L.41-2009, SEC.2.

IC 12-24-4

Chapter 4. Security at State Institutions

IC 12-24-4-1

Appointment of security officers

Sec. 1. Subject to the approval of the director, a superintendent may appoint security officers to exercise the powers given by this chapter.

As added by P.L.2-1992, SEC.18.

IC 12-24-4-2

Duties of director and superintendent with respect to security officers appointed

Sec. 2. The director and the superintendent shall do the following with respect to security officers appointed under this chapter:

(1) Prescribe duties.

(2) Direct conduct.

(3) Prescribe distinctive uniforms.

(4) Designate emergency vehicles for the use of the security officers.

As added by P.L.2-1992, SEC.18.

IC 12-24-4-3

Repealed

(Repealed by P.L.24-1997, SEC.66.)

IC 12-24-4-4

Repealed

(Repealed by P.L.24-1997, SEC.66.)

IC 12-24-4-5

Repealed

(Repealed by P.L.24-1997, SEC.66.)

IC 12-24-4-6

Assistance of law enforcement officers; request; powers

Sec. 6. (a) The director or a superintendent may authorize one (1) or more officials of the division or the state institution to request the assistance of other state, county, city, or town law enforcement officers if necessary.

(b) If a law enforcement officer is on the property of the division by virtue of a request under this section, the law enforcement officer possesses all powers conferred by this chapter upon a security officer appointed with police powers under this chapter in addition to the powers otherwise conferred upon the law enforcement officer by Indiana law.

As added by P.L.2-1992, SEC.18.

IC 12-24-4-7

Traffic and parking; regulation; rules; violations; penalties;

charges and fees

Sec. 7. (a) This section does not limit or restrict the powers of another governmental authority having jurisdiction over public streets, roads, alleys, or ways.

(b) The director or a superintendent may regulate the traffic of vehicles and pedestrians and parking of vehicles within real property owned, used, occupied, or controlled by the division. Rules applicable to traffic and parking may include the following:

(1) Provisions governing the:

(A) registration;

(B) speed;

(C) operation;

(D) parking; or

(E) times, places, and manner of use;

of vehicles.

(2) Provisions prescribing penalties for the violation of the rules, which may include any of the following:

(A) Imposition of reasonable charges.

(B) Removing and impounding at the expense of the violator vehicles that are operated or parked in violation of the rules.

(C) Denial of permission to operate vehicles on the property of the division or the state institutions.

(3) Provisions establishing reasonable charges and fees for any of the following:

(A) Registration of vehicles.

(B) Use of parking spaces or facilities owned or occupied by the division.

As added by P.L.2-1992, SEC.18.

IC 12-24-5

Chapter 5. Admission to State Institutions

IC 12-24-5-1

"Resident" defined

Sec. 1. As used in this chapter, "resident" refers to an individual who has lived continuously in Indiana during the previous year.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-2

Determination of residence; requirements

Sec. 2. For purposes of determining the residence of an individual under this chapter, the following apply:

(1) If the individual spent any time in a public or private hospital or institution, the individual is not considered to have lived in Indiana continuously during that period.

(2) If the individual has been a resident of a state that does not have a reciprocal agreement with Indiana, the residence requirements for the individual to gain admission to a state institution may not be less than the requirements for residence in the state of the former residence of the individual.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-3

Care and maintenance; residents

Sec. 3. A resident is entitled to care and maintenance in a state institution if the resident is legally admitted to the state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-4

Nonresidents; factors

Sec. 4. The director may authorize the admission of an individual who is not a resident to a state institution if, in the judgment of the director:

(1) it cannot be determined if the individual is a resident; or

(2) the circumstances of the case constitute sufficient reason to admit the individual.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-5

Deportation of escapee from institution of another state

Sec. 5. The director may order the deportation of an individual found in Indiana who has escaped from an institution of another state even if an application to admit the individual to a state institution has not been made.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-6

Report of nonresident patient to director; investigation; return to place of residence; certification of impracticability

Sec. 6. (a) The superintendent of a state institution shall notify the director if there is a patient in the state institution who the superintendent believes is not a resident.

(b) If the director receives a report under subsection (a), the director or the director's designee shall investigate whether the patient is a resident.

(c) Except as provided in subsection (e), if the director determines that the patient was not a resident at the time of admission to the state institution, the division shall return the patient to the patient's place of residence.

(d) If the director determines it is impractical to return the patient to the patient's place of residence, the director shall certify that fact in writing.

(e) If the director makes a certification under subsection (d), the patient is considered a resident of the county in which the patient resided for the longest time during the year immediately preceding the patient's admission to the state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-7

Interstate agreements concerning return of individuals to state of residence

Sec. 7. The director may enter into agreements with authorities of another state that enacts legislation consistent with this chapter for the following:

(1) The arbitration of disputed questions between the other state and Indiana concerning the residence of individuals.

(2) The return of the individuals to their place of residence.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-8

Return of resident; consent

Sec. 8. The director may consent to the return to Indiana of an individual who is a resident.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-9

Designation of state institution to receive returnees; care

Sec. 9. The director shall designate a state institution to do the following:

(1) Receive individuals returned to Indiana under this chapter.

(2) Provide care for those individuals until committed to the proper state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-10

Deportation expense; payment

Sec. 10. The actual necessary expense incurred in deporting an individual under this chapter shall be paid from the state general fund upon a verified claim made by the director or the director's designee.

As added by P.L.2-1992, SEC.18.

IC 12-24-6

Chapter 6. Provision of Clothing for Patients

IC 12-24-6-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the institution clothing fund established by this chapter.

As added by P.L.2-1992, SEC.18.

IC 12-24-6-2

Requisition of clothing needs

Sec. 2. When the superintendent of a state institution accepts a patient, the superintendent shall indicate the clothing needs of the patient in a requisition.

As added by P.L.2-1992, SEC.18.

IC 12-24-6-3

Financial responsibility to court

Sec. 3. The responsible parties are responsible to the court for supplying a patient's clothing unless financially unable to supply the clothing.

As added by P.L.2-1992, SEC.18.

IC 12-24-6-4

Duties of circuit court clerk of admitting county

Sec. 4. If clothing can be supplied by a responsible party or any other willing person, the clerk of the circuit court of the county from which the patient is admitted shall do the following:

(1) Notify the responsible party or the other willing person of the clothing needs of the patient.

(2) Have an ample supply of suitable clothing sent with the patient.

As added by P.L.2-1992, SEC.18.

IC 12-24-6-5

Compliance with requisition

Sec. 5. Clothing furnished under section 4 of this chapter must substantially comply with the requisition sent by the superintendent under section 2 of this chapter.

As added by P.L.2-1992, SEC.18.

IC 12-24-6-6

Charge of admitting county; limit

Sec. 6. (a) If clothing is not otherwise furnished at the time a patient is admitted to a state institution, the superintendent shall furnish the clothing and charge the county from which the patient was admitted.

(b) A superintendent may not charge a county under subsection (a) more than four hundred dollars ($400).

As added by P.L.2-1992, SEC.18.

IC 12-24-6-7
Responsibility to supply clothing after admission

Sec. 7. After a patient has been admitted to a state institution, it is the responsibility of:

(1) the patient;

(2) the payee of any type of benefit received on behalf of a patient; or

(3) the responsible parties of the patient;

to supply clothing requested by the superintendent for the patient.
As added by P.L.2-1992, SEC.18.

IC 12-24-6-8
Furnishing of clothing by superintendent

Sec. 8. If a patient in a state institution is not otherwise supplied with clothing, the superintendent shall furnish the clothing.
As added by P.L.2-1992, SEC.18.

IC 12-24-6-9
Charging of county for clothing superintendent furnishes; limit

Sec. 9. (a) If a superintendent furnishes clothing under section 8 of this chapter, the superintendent shall charge the county from which the patient was admitted.

(b) A charge made by a superintendent for a patient under this section may not be more than three hundred dollars ($300) per year.

(c) A charge made by a superintendent under this section is a debt due the state institution.
As added by P.L.2-1992, SEC.18.

IC 12-24-6-10
Charges made under this chapter; requisites

Sec. 10. All charges made under this chapter must be:

(1) signed by the superintendent; and

(2) forwarded for payment to the auditor of the county from which the patient was admitted according to the following schedule:

(A) All charges accruing between January 1 and June 30 of each year shall be forwarded to the county auditor on or before October 1 of that year.

(B) All charges accruing between July 1 and December 31 of each year shall be forwarded to the county auditor before April 1 of the following year.

As added by P.L.2-1992, SEC.18.

IC 12-24-6-11
Warrant; payment of charge

Sec. 11. (a) Upon receipt of a charge under section 10 of this chapter, the county auditor shall draw a warrant on the treasurer of the county for payment of the charge.

(b) A charge shall be paid out of the money of the county appropriated for that purpose.

(c) The fiscal body of each county shall annually appropriate sufficient money to pay the accounts.

(d) A payment by a county under this section shall be transmitted to the superintendent of the billing state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-6-12

Monthly transmittal of collections to state auditor

Sec. 12. The superintendent of a state institution shall transmit each month the collections received under this chapter to the auditor of state.

As added by P.L.2-1992, SEC.18.

IC 12-24-6-13

Institution clothing fund established

Sec. 13. (a) The institution clothing fund is established.

(b) The auditor of state shall place money received under section 12 of this chapter in the fund.

(c) The fund may be used only for the purpose of crediting the respective state institutions for the amounts expended by the state institutions for clothing for which the counties were billed.

As added by P.L.2-1992, SEC.18.

IC 12-24-6-14

Delinquent charges; certification to state auditor; payment

Sec. 14. (a) If a county does not pay a charge made under this chapter within six (6) months after the date the charge is delivered to the county auditor, the superintendent of the state institution shall certify to the auditor of state that the money is due.

(b) After receiving the superintendent's certification under subsection (a), the auditor of state shall:

(1) withhold from any money due to the county a sum equal to the amount certified by the superintendent; and

(2) pay the amount withheld under subdivision (1) into the fund as provided in section 13 of this chapter.

As added by P.L.2-1992, SEC.18.

IC 12-24-7

Chapter 7. Employment and Remuneration of Patients at State Institutions

IC 12-24-7-1

"Patient" defined

Sec. 1. As used in this chapter, "patient" means an individual who is an inpatient in a state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-2

"Treatment team" defined

Sec. 2. As used in this chapter, "treatment team" includes physicians, psychologists, therapists, or other state institution staff designated to meet periodically to review a patient's progress.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-3

Determination of treatment team; duties; review

Sec. 3. (a) If the treatment team determines that a patient can benefit from performing work for a wage, the treatment team shall do the following:

(1) Identify in writing the goals and objectives to be achieved for a patient who performs work for a wage.

(2) Describe in writing the type of work the patient can perform.

(3) Determine in writing the number of hours a patient may perform work each week.

(4) Notify the patient and the superintendent of the information described in subdivisions (1), (2), and (3).

(5) Receive comments from the patient, the patient's guardian (if any), and other persons interested in the patient's welfare.

(b) The treatment team shall review the determinations that the team makes under subsection (a) at least quarterly.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-4

Election of patient to perform work for pay

Sec. 4. (a) A patient may elect to perform work for pay under this chapter if work of the type described by the treatment team under section 3(a)(1) of this chapter is available.

(b) A patient may not be required to perform work for pay.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-5

Spending of wages earned for work

Sec. 5. A patient may spend wages earned for work performed under this chapter in any lawful manner.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-6

Restrictions on division

Sec. 6. A division may not:

(1) deduct any of a patient's earned wages, except for those deductions required by law; or

(2) require a patient to pay any of the patient's earned wages;

to defray any part of the cost of the patient's care and treatment at the state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-7

Restrictions on patient

Sec. 7. A patient who earns wages under this chapter is not:

(1) subject to rules of the state personnel department;

(2) eligible to become a member of the public employees' retirement fund; or

(3) covered by IC 22-2-2.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-8

Rules

Sec. 8. Each division shall adopt rules under IC 4-22-2 concerning the following:

(1) The operation of work programs under this chapter.

(2) The establishment of wage scales for work performed under this chapter.

(3) The frequency with which the treatment team must meet concerning the patient's progress toward achieving the goals and objectives established for the patient.

As added by P.L.2-1992, SEC.18.

IC 12-24-8
Chapter 8. Apprehending and Returning Escaped Patients

IC 12-24-8-1
Sheriff to take charge of and return escaped individual

Sec. 1. If an individual escapes from the facility to which an individual is committed under IC 12-26 or fails to comply with the requirements for outpatient status in accordance with IC 12-26-14-8, the sheriff of the county in which the individual is found shall take charge of and return the individual to the nearest state institution or community mental health center that has appropriate and available facilities and personnel to detain the escaped individual.

As added by P.L.2-1992, SEC.18.

IC 12-24-8-2
Expense; charge against committing county

Sec. 2. The expense of apprehending and returning the individual is a charge against the county from which the individual was originally committed.

As added by P.L.2-1992, SEC.18.

IC 12-24-8-3
Receipt for individual delivered; sheriff's expense account; payment

Sec. 3. (a) The sheriff shall take a receipt from the superintendent of the state institution or community mental health center to which the individual is delivered.

(b) The sheriff's expense account, when submitted with the receipt obtained under subsection (a) to the auditor of the county from which the individual has been committed, shall be paid in the same manner as payments for the original delivery of the individual to the facility are paid.

As added by P.L.2-1992, SEC.18.

IC 12-24-8-4
Transfer of returned individual

Sec. 4. The appropriate division shall arrange for the transfer of the returned individual from the facility to which the individual is returned to the facility where the individual is committed under IC 12-26.

As added by P.L.2-1992, SEC.18.

IC 12-24-9

Chapter 9. Funeral Expenses of Patients

IC 12-24-9-1

Payment

Sec. 1. If a patient in a state institution dies, the superintendent shall pay the funeral expenses if those expenses are not otherwise supplied.

As added by P.L.2-1992, SEC.18.

IC 12-24-9-2

Charge of admitting county

Sec. 2. The superintendent shall charge the county from which the patient was admitted for the funeral expenses paid by the superintendent under section 1 of this chapter.

As added by P.L.2-1992, SEC.18.

IC 12-24-9-3

Requisites of charge

Sec. 3. A charge made under section 2 of this chapter shall be:

(1) signed by the superintendent;

(2) attested by the seal of the state institution; and

(3) delivered to the treasurer of state.

As added by P.L.2-1992, SEC.18.

IC 12-24-9-4

Collection

Sec. 4. The treasurer of state shall collect the account from the county as a debt due to the state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-10

Chapter 10. Guardian for Estate of Patient Committed to State Institution

IC 12-24-10-1

Appointment; representation by attorney general

Sec. 1. If:

(1) it becomes necessary to appoint a guardian for the estate of an individual who has been committed to a state institution; and

(2) the estate of the individual does not exceed three hundred dollars ($300);

the attorney general shall represent the individual in securing the appointment of a guardian for the individual's estate.

As added by P.L.2-1992, SEC.18.

IC 12-24-10-2

Petition; appointment

Sec. 2. Upon presentation of a petition for the appointment of a guardian, the court may appoint either of the following as the guardian of the individual's estate:

(1) The superintendent of the state institution to which the individual has been committed.

(2) Another individual employed by the state institution in an administrative capacity.

As added by P.L.2-1992, SEC.18.

IC 12-24-10-3

Filing of application for appointment

Sec. 3. An application for the appointment of a guardian under this chapter must be filed in the circuit or superior court in the county in which the state institution is located.

As added by P.L.2-1992, SEC.18.

IC 12-24-10-4

Fees or costs not to be charged

Sec. 4. Fees or costs may not be charged in a proceeding under this chapter, including a fee for the guardian or the attorney for the guardian.

As added by P.L.2-1992, SEC.18.

IC 12-24-11

Chapter 11. Release of Records Concerning Patients Discharged From State Institutions

IC 12-24-11-1

Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-24-11-2

Patient with developmental disability; release to local agency serving such needs in residing area; authorization; form; requisites

Sec. 2. (a) This section applies to an individual who has a primary diagnosis of developmental disability.

(b) Action contemplated by a patient under this section includes action by the patient's parent or guardian if the patient is not competent.

(c) If a patient is admitted to a state institution, the staff of the state institution shall, before the patient is discharged, ask the patient whether the patient's medical and treatment records may be sent to a service coordinator employed by the division of disability and rehabilitative services under IC 12-11-2.1 so the service coordinator may send the records to local agencies serving the needs of individuals with a developmental disability in the area in which the patient will reside.

(d) If a patient agrees to release the records, the patient shall sign a form permitting the state institution to release to a service coordinator employed by the division of disability and rehabilitative services under IC 12-11-2.1 a copy of the patient's medical and treatment records to forward to local agencies serving the needs of individuals with a developmental disability in the area in which the patient will reside. The form must read substantially as follows:

AUTHORIZATION TO RELEASE
MEDICAL AND TREATMENT
RECORDS

I agree to permit _____
(name of state institution)
to release a copy of the medical and treatment records of

_____	to _____
(patient's name)	(name of local agency serving the needs of individuals with a developmental disability)
_____	_____
(date)	(signature)
	_____
	(address)
_____	_____
(signature of individual securing release of medical and treatment	(relationship to patient if signature is not that of the patient)

records)

(e) If a patient knowingly signs the form for the release of medical records under subsection (d), a service coordinator employed by the division of disability and rehabilitative services under IC 12-11-2.1 shall allow local agencies serving the needs of individuals with a developmental disability in the area in which the patient will reside to obtain the following:

(1) The patient's name.

(2) The address of the patient's intended residence.

(3) The patient's medical records.

(4) A complete description of the treatment the patient was receiving at the state institution at the time of the patient's discharge.

(f) If the local agency does not obtain a patient's records, the state institution shall deliver the medical records to the local agency before or at the time the patient is discharged.

(g) If a patient does not agree to permit the release of the patient's medical and treatment records, the service coordinator shall deliver:

(1) the patient's name; and

(2) the address of the patient's intended residence;

to local agencies serving the needs of individuals with a developmental disability in the area in which the patient will reside before or at the time the patient is discharged.

As added by P.L.2-1992, SEC.18. Amended by P.L.4-1993, SEC.200; P.L.5-1993, SEC.213; P.L.24-1997, SEC.55; P.L.272-1999, SEC.45; P.L.141-2006, SEC.65; P.L.99-2007, SEC.117.

IC 12-24-11-3

Contact of patient, parent, or guardian; explanation of services available

Sec. 3. Immediately upon receiving a patient's medical records or a patient's name and address under section 2 of this chapter, IC 12-24-12, or IC 12-26-11, the community mental health center or the local agency serving the needs of individuals with a developmental disability shall do the following:

(1) Contact:

(A) the patient; or

(B) the patient's parent or guardian if the patient is not competent.

(2) Explain the types of services that are available to the patient in the area in which the patient will reside.

As added by P.L.2-1992, SEC.18. Amended by P.L.40-1994, SEC.48; P.L.99-2007, SEC.118; P.L.188-2013, SEC.12.

IC 12-24-11-4

Compliance with chapter; exemption; requirement

Sec. 4. (a) A person is exempt from complying with this chapter only to the extent that compliance with this chapter will result in a loss of federal money or services.

(b) A person shall comply with this chapter and perform additional

acts required to receive federal money or services if performance of the additional acts not specified by this chapter are required to receive the federal money or services.

As added by P.L.2-1992, SEC.18.

IC 12-24-12

Chapter 12. Monitoring of Patients Discharged From State Institutions and the Use of Community Residential Programs

IC 12-24-12-1

"Division" defined

Sec. 1. As used in this chapter, "division" refers only to the division of mental health and addiction.

As added by P.L.2-1992, SEC.18. Amended by P.L.215-2001, SEC.68.

IC 12-24-12-2

Community based monitoring system

Sec. 2. The division shall contract with community mental health centers to administer a system of community based gatekeepers to monitor each individual from the time the individual has been involuntarily committed to a state institution administered by the division until the individual is discharged from the commitment.

As added by P.L.2-1992, SEC.18. Amended by P.L.62-1993, SEC.7; P.L.40-1994, SEC.49; P.L.6-1995, SEC.15; P.L.188-2013, SEC.13.

IC 12-24-12-3

Plan of discharge or placement on outpatient status of patient; copies; duties regarding treatment or residence

Sec. 3. (a) Before an individual described in section 2 of this chapter is discharged or placed on outpatient status under IC 12-26, a discharge plan shall be formulated in consultation with the patient's designated case manager. The superintendent shall provide copies of the individual's plan of discharge or placement to a community mental health center serving the area in which the individual will reside. The plan must include the following:

(1) A copy of the papers authorizing the discharge or placement.

(2) An assessment of the individual's mental health.

(3) The superintendent's recommendations concerning the follow-up treatment services and the specific residential placement that the individual should receive after the individual is discharged or placed.

(4) If the individual has been placed on outpatient status, a description of the conditions relating to the individual's placement.

(b) If the plan provided to the community mental health center under subsection (a) recommends or requires that an individual receive treatment from another treatment provider, the community mental health center shall document the following:

(1) Whether the initial contact with the treatment provider occurred.

(2) Whether treatment was rendered according to the recommendations in the individual's plan.

(3) What changes, if any, were made in the individual's plan by the treatment provider.

(c) If the plan provided to the community mental health center under subsection (a) recommends or requires that an individual reside at a location designated by the superintendent in the plan, the case manager shall monitor whether the individual is residing at the location.

As added by P.L.2-1992, SEC.18. Amended by P.L.40-1994, SEC.50; P.L.188-2013, SEC.14.

IC 12-24-12-4

Problems with continuity of care; reporting

Sec. 4. (a) If a community mental health center is aware of problems with continuity of care for a discharged or placed individual, the community mental health center shall contact:

(1) the discharged or placed individual;

(2) the treatment provider;

(3) the residential provider; or

(4) the state institution from which the individual has been discharged or placed;

and attempt to resolve any problems.

(b) If the treatment or residential problems continue and are significant, the community mental health center shall report these findings to the director.

As added by P.L.2-1992, SEC.18. Amended by P.L.40-1994, SEC.51; P.L.188-2013, SEC.15.

IC 12-24-12-5

Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-24-12-6

Application of IC 12-24-12-3 and IC 12-24-12-4

Sec. 6. Sections 3 through 4 of this chapter do not require an individual who has been discharged from a state institution to comply with the plan developed for the individual under section 3 of this chapter or to cooperate with a case manager in the performance of the case manager's duties under sections 3 through 4 of this chapter.

As added by P.L.2-1992, SEC.18. Amended by P.L.40-1994, SEC.52.

IC 12-24-12-7

Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-24-12-8

Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-24-12-9

Duties of gatekeeper

Sec. 9. The gatekeeper for an individual who has been committed to a state institution administered by the division has the following

duties:

(1) To provide case management to the individual in both the state institution and the community.

(2) To facilitate and plan the committed individual's transition from the state institution to the community or to another appropriate placement.

As added by P.L.6-1995, SEC.16.

IC 12-24-12-10

Gatekeeper for individual in state institution; division as gatekeeper

Sec. 10. (a) Upon admission to a state institution administered by the division of mental health and addiction, the gatekeeper is one (1) of the following:

(1) For an individual with a psychiatric disorder, the community mental health center that submitted the report to the committing court under IC 12-26.

(2) For an individual with a developmental disability, a division of disability and rehabilitative services service coordinator under IC 12-11-2.1.

(b) The division is the gatekeeper for the following:

(1) An individual who is found to have insufficient comprehension to stand trial under IC 35-36-3.

(2) An individual who is found to be not guilty by reason of insanity under IC 35-36-2-4 and is subject to a civil commitment under IC 12-26.

(3) An individual who is immediately subject to a civil commitment upon the individual's release from incarceration in a facility administered by the department of correction or the Federal Bureau of Prisons, or upon being charged with or convicted of a forcible felony (as defined by IC 35-31.5-2-138).

(4) An individual transferred from the department of correction under IC 11-10-4.

As added by P.L.6-1995, SEC.17. Amended by P.L.24-1997, SEC.56; P.L.272-1999, SEC.46; P.L.215-2001, SEC.69; P.L.141-2006, SEC.66; P.L.114-2012, SEC.33; P.L.188-2013, SEC.16; P.L.113-2014, SEC.43.

IC 12-24-12-11

Assignment of gatekeeper; time; duration; transferability

Sec. 11. (a) A gatekeeper must be assigned to an individual at the time of the petition for commitment under IC 12-26-6 and IC 12-26-7.

(b) Except as provided in subsection (c), the entity assigned as the committed individual's gatekeeper shall continue to serve as that individual's gatekeeper until the termination of the individual's commitment.

(c) The assignment of the gatekeeper for an individual may be transferred to another gatekeeper if the transfer is in the best interest of the committed individual.

As added by P.L.6-1995, SEC.18.

IC 12-24-13

Chapter 13. Liability for Cost of Treatment of Patients in State Institutions

IC 12-24-13-1

Accounting and bookkeeping system

Sec. 1. Each division shall develop and implement an accounting and bookkeeping system for each state institution so that the cost of all institutional services provided to a patient can be determined.

As added by P.L.2-1992, SEC.18.

IC 12-24-13-2

Limitation on charges

Sec. 2. A patient, patient's parents, patient's legal guardians, or patient's other responsible relatives may be charged only for services and treatment provided.

As added by P.L.2-1992, SEC.18.

IC 12-24-13-3

Repealed

(Repealed by P.L.187-2007, SEC.15.)

IC 12-24-13-4

Charge structure for institutional services and treatment; liability for payment

Sec. 4. (a) Each state institution shall establish a charge structure for institutional services and treatment. The charge structure must be approved by the director of the division before July 1 of each year and, once approved, the charge structure must be effective for the following state fiscal year.

(b) Except as provided in section 5 of this chapter, each patient in a state institution and the responsible parties, individually or collectively, are liable for the payment of the charges for the treatment and maintenance of the patient.

As added by P.L.2-1992, SEC.18. Amended by P.L.187-2007, SEC.10.

IC 12-24-13-5

Placement of child with disability in state institution for special education

Sec. 5. (a) Except as provided in section 6 of this chapter, whenever placement of a child with a disability (as defined in IC 20-35-1-2) in a state institution is necessary for the provision of special education for that child, the cost of the child's education program, nonmedical care, and room and board shall be paid by the division rather than by the child's parents, guardian, or other responsible party.

(b) The child's parents, guardian, or other responsible party shall pay the cost of any transportation not required by the child's individualized education program (as defined in IC 20-18-2-9). The

school corporation in which the child has legal settlement (as determined under IC 20-26-11) shall pay the cost of transportation required by the student's individualized education program under IC 20-35-8-2. However, this section does not relieve an insurer or other third party from an otherwise valid obligation to provide or pay for the services provided to the child.

(c) The Indiana state board of education and the divisions shall jointly establish a procedure and standards for determining when placement in a state institution is necessary for the provision of special education for a child.

As added by P.L.2-1992, SEC.18. Amended by P.L.23-1993, SEC.56; P.L.1-2005, SEC.140; P.L.146-2008, SEC.415.

IC 12-24-13-6

Children under custody or supervision of department or county office

Sec. 6. The department of child services is responsible for the cost of treatment or maintenance of a child under the department's custody or supervision who is placed in a state institution only if the cost is reimbursable under the state Medicaid program under IC 12-15.

As added by P.L.2-1992, SEC.18. Amended by P.L.4-1993, SEC.201; P.L.5-1993, SEC.214; P.L.145-2006, SEC.125; P.L.146-2008, SEC.416; P.L.131-2009, SEC.2.

IC 12-24-13-7

Insurance coverage; assignment of benefits

Sec. 7. If a patient in a state institution has insurance coverage that covers hospitalization or medical services in psychiatric hospitals, all benefits under the insurance coverage shall be assigned to the appropriate division.

As added by P.L.2-1992, SEC.18. Amended by P.L.187-2007, SEC.11.

IC 12-24-13-8

Repealed

(Repealed by P.L.187-2007, SEC.15.)

IC 12-24-13-9

Repealed

(Repealed by P.L.187-2007, SEC.15.)

IC 12-24-13-10

Statements of sums due as maintenance charges; issuance; payment period

Sec. 10. The appropriate division shall issue to any party liable under this chapter for any type of psychiatric service statements of sums due as maintenance charges. The division shall require the liable party to pay monthly, quarterly, or otherwise as may be arranged an amount not exceeding the maximum charge as determined under this chapter.

As added by P.L.2-1992, SEC.18. Amended by P.L.187-2007, SEC.12.

IC 12-24-13-11
Estate of patient

Sec. 11. The estate of a patient who receives care, treatment, maintenance, or any other service furnished by the division at the state's expense is liable for payment of the charges as determined under this chapter for the service. The estate is exempt from the requirements of section 10 of this chapter or any part of this chapter directly in conflict with the intent of the chapter to hold a patient's estate liable for payment.

As added by P.L.2-1992, SEC.18. Amended by P.L.187-2007, SEC.13.

IC 12-24-14

Chapter 14. Collection of Charges for Treatment and Maintenance of Patients

IC 12-24-14-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the mental health fund established by this chapter.

As added by P.L.2-1992, SEC.18.

IC 12-24-14-2

Billing and collection of maintenance charges

Sec. 2. The billing and collection of maintenance charges under this article shall be made by the division or a unit of the division designated by the director.

As added by P.L.2-1992, SEC.18. Amended by P.L.187-2007, SEC.14.

IC 12-24-14-3

Deposit of money collected

Sec. 3. Money collected shall be deposited each day by the division in a designated public depository.

As added by P.L.2-1992, SEC.18.

IC 12-24-14-4

Deposit in state mental health fund of money deposited under IC 12-24-14-3

Sec. 4. On the first day of each month, or within three (3) days thereafter, all money deposited under section 3 of this chapter shall be forwarded by the division to the treasurer of state to be deposited in a special fund to be known as the mental health fund.

As added by P.L.2-1992, SEC.18.

IC 12-24-14-5

Powers of division

Sec. 5. The division may do the following:

(1) Investigate, either with division staff or on a contractual or other basis, the financial condition of each person liable under this chapter.

(2) Make determinations of the ability of the patient and the responsible parties to pay maintenance charges.

(3) Set a standard as a basis of judgment of ability to pay. The standard shall be recomputed periodically to reflect changes in the cost of living and other pertinent factors and to make provisions for unusual and exceptional circumstances in the application of the standard.

As added by P.L.2-1992, SEC.18.

IC 12-24-14-6

Compromise agreements; conditions; other sources of

reimbursement

Sec. 6. (a) The division may, upon receipt of a properly executed application, agree to accept payment at a lesser rate than that prescribed under this article.

(b) The division shall, in determining whether to accept the lesser amount under this section, take into consideration the possibility of reimbursement from the estate of the patient and the estates of responsible parties.

(c) All agreements to accept a lesser amount under this section are subject to cancellation or modification if any of the following conditions exist:

(1) Material misrepresentation or omission of facts.

(2) Substantial and continuing change in the financial circumstances of the responsible party with whom the agreement is made within five (5) years after discharge.

(d) A person who has been issued a bill for maintenance charges based upon a lesser rate than that prescribed by this article may request the division to review the agreement. If an acceptable rate cannot otherwise be established, the division shall provide for hearings to be held upon request.

(e) The division may modify an agreement made under this section after the hearing held under subsection (d).

(f) This section does not prohibit the division from receiving reimbursement under 42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.

As added by P.L.2-1992, SEC.18.

IC 12-24-14-7

Acceptance of more money than owed

Sec. 7. The division may accept more money than is owed if a person desires to pay more.

As added by P.L.2-1992, SEC.18.

IC 12-24-15

Chapter 15. Legal Process for Recovery of Treatment and Maintenance Charges

IC 12-24-15-1

Lien upon real property of patient and responsible parties; recording; priority

Sec. 1. The liability created by this article for payment of any type of cost of treatment and maintenance of a patient constitutes a lien upon the real property of the patient and responsible parties of the patient whenever the lien has been recorded according to this chapter. The lien has priority over all liens subsequently acquired.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-2

Delinquent charges; notice of lien; filing; requisites

Sec. 2. (a) If charges for the cost of treatment and maintenance of a patient remain unpaid in whole for three (3) months or in part for six (6) months, the appropriate division may file, in the office of the county recorder of the county in which the real property is located, the following:

(1) A notice of lien designating the name and place of residence of the patient or responsible party against whose property the lien is asserted.

(2) The date when the charges became delinquent.

(3) A legal description of the real property subject to the lien.

(b) The county auditor or assessor of a county shall, upon request by the division, do the following:

(1) Give notice of all real property in the county registered to the patient or responsible parties.

(2) Furnish the division the legal description and address of all property so registered.

(c) One (1) copy of the notice of lien shall be retained by and filed in the offices of the division, and one (1) copy shall be furnished to the patient or responsible party whose real property is affected.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-3

Notice of lien; effect of filing; duration

Sec. 3. (a) From the date on which the notice of lien is recorded in the office of the county recorder, the notice of lien:

(1) constitutes due notice of a lien against the patient or responsible party or the patient's estate for any amount then recoverable and any amounts that become recoverable under this article; and

(2) gives a specific lien in favor of the division.

(b) The lien continues from the date of filing until the lien is satisfied or released.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-4

Notice to division director of opening of a decedent's estate in the county; enforcement suit; judgment lien

Sec. 4. (a) The clerk of the circuit court for each county shall give notice to the director of the appropriate division of the opening or commencement of a decedent's estate in the county.

(b) The attorney general shall, upon notification by the division, bring suit in the name of the state on relation of the division against the estate of the patient or a responsible party failing to make payments as required under this article.

(c) If a judgment is obtained in a suit brought under subsection (b), the judgment constitutes a lien against the part of the estate of the person described in the complaint.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-5

Suit to enforce payment of maintenance charges; order; attachment; costs

Sec. 5. (a) The attorney general may bring suit against:

(1) the patient;

(2) the responsible parties of the patient; or

(3) the legal guardian of the patient;

for failure to comply with a maintenance agreement established or for failure to make a maintenance agreement. Suit may be brought for the amount due the state for the maintenance charges of the patient.

(b) The court may order the payment of amounts due for maintenance charges for the periods that the circumstances require. The order may be entered against any of the defendants and may be based upon the proportionate ability of each defendant to contribute to the payment of sums representing maintenance charges.

(c) Orders for the payment of money may be enforced by attachments as in contempt proceedings against the defendants, and costs may be adjudged against and apportioned among the defendants.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-6

Claim against estate of patient or responsible party under conditions of IC 12-24-13; limitation of actions

Sec. 6. (a) Except as provided in subsection (b), the absence of a suit authorized in section 5 of this chapter does not bar a division from enforcing its claim against the estate of a patient or the responsible parties of the patient if the conditions of IC 12-24-13 have been met.

(b) A claim against a patient or the responsible parties of the patient becomes void on the tenth anniversary of the patient's discharge if the diagnosis of the patient was mental illness or developmental disability, or both.

As added by P.L.2-1992, SEC.18. Amended by P.L.81-1994, SEC.1.

IC 12-24-15-7
Foreclosure of lien; proceedings

Sec. 7. The attorney general may bring proceedings in foreclosure on a lien arising under this chapter during the lifetime of the patient or responsible party when, in the opinion of the director, it is in the best interest of the division to foreclose on the lien.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-8
Claim against estate of patient or responsible party to recover unpaid treatment and maintenance charges; property subject to lien; priority; conditions

Sec. 8. (a) Upon the death of a patient or responsible party whose property is encumbered by a lien arising under this chapter and upon notification by the director, the attorney general shall file a claim in the estate of the patient or responsible party for recovery of all charges for treatment and maintenance that have accrued at the date of death.

(b) Notwithstanding any other law, a claim filed for recovery of charges for treatment and maintenance has priority in order of payment from the estate over all other claims except prior recorded encumbrances, taxes, reasonable costs of administration, and reasonable funeral expenses.

(c) If the real property of the deceased patient or responsible relative is occupied by a surviving spouse of the patient or responsible party, the director may not assert a lien or claim during the lifetime of the surviving spouse, except as provided in subsection (d).

(d) The division shall file a claim for recovery of costs of treatment and maintenance if:

(1) another claimant or person has opened an estate and is attempting to enforce a claim; or

(2) a fraudulent attempt is made to avoid the claim or lien.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-9
Claim against estate of patient or responsible party to recover unpaid treatment and maintenance charges; priority

Sec. 9. (a) Upon the death of a patient or a responsible party of the patient who is indebted to the state for any unpaid maintenance charges, whether or not secured by a lien, the attorney general shall file a claim against the estate of the patient or any responsible party for recovery of all charges for treatment and maintenance that have accrued at the date of death.

(b) Notwithstanding any other law, a claim filed under this section has priority except prior recorded encumbrances, taxes, reasonable costs of administration, and reasonable funeral expenses.

(c) Limitations of actions do not bar a division, except:

(1) as to sureties; and

(2) as provided in section 6 of this chapter.

As added by P.L.2-1992, SEC.18. Amended by P.L.81-1994, SEC.2.

IC 12-24-15-10
Compromise agreements

Sec. 10. The governor may, with the approval of the attorney general, agree to accept a lesser payment than that established by this article if it is found after investigation that the estate of a patient or responsible party is insufficient to pay the amount established.
As added by P.L.2-1992, SEC.18.

IC 12-24-15-11
Pending litigation or rights accrued before June 1, 1981, unaffected; limitation of actions

Sec. 11. This article does not affect any pending litigation or rights or privileges that accrued before June 1, 1981. However, a claim for services provided before June 1, 1981, against a patient or the responsible parties of the patient becomes void on the tenth anniversary of the patient's discharge if the diagnosis of the patient was mental illness or developmental disability, or both.
As added by P.L.2-1992, SEC.18. Amended by P.L.81-1994, SEC.3.

IC 12-24-16
Chapter 16. Taxable Costs and Expenses

IC 12-24-16-1
Applicable statutes

Sec. 1. This chapter applies to taxable costs and expenses under the following statutes:

(1) IC 12-24-8.
(2) IC 12-24-9.
(3) IC 12-24-17-8.

As added by P.L.2-1992, SEC.18.

IC 12-24-16-2
Costs and expenses; amounts

Sec. 2. The taxable costs and expenses to be paid are as follows:

(1) To the physician for making the statement accompanying the allegation of insanity, an amount to be fixed by the court not more than ten dollars ($10).

(2) To the two (2) medical examiners for making out the certificate and attending the hearing, an amount to be fixed by the court not more than ten dollars ($10). The two (2) medical examiners shall be allowed, for each mile necessarily traveled in making the examination or attending the hearing, an amount for mileage equal to the amount per mile currently paid to state officers and employees.

(3) To other witnesses, the same fees as are allowed by law in other cases in the circuit court.

(4) To the clerk of the circuit court, the same fees as are allowed by law for similar services in other cases.

(5) To the sheriff, for serving process and attending the hearing, the same fees as are allowed by law for similar services in other cases, and for taking a patient to the hospital, or removing a patient from the hospital, upon warrant of the clerk, one dollar and fifty cents ($1.50) per day for the support of each patient on the way to and from the hospital, and an amount for mileage equal to the amount per mile paid to state officers and employees.

(6) To each assistant allowed by the judge and accompanying the sheriff, with computation in both instances to be made from the county seat to the hospital by the nearest route, an amount for mileage equal to the amount per mile paid to state officers and employees.

(7) To other persons discharging the duties of sheriff, as provided by this article, the same fees as are allowed in this section to the sheriff. To the assistants of the person, the same fees as are allowed in this section to the assistants of the sheriff.

As added by P.L.2-1992, SEC.18.

IC 12-24-16-3
Payment out of county general fund

Sec. 3. The costs specified in this chapter shall be paid out of the county general fund upon the certificate of the circuit court clerk and the warrant of the county auditor.
As added by P.L.2-1992, SEC.18.

IC 12-24-17
Chapter 17. Offenses

IC 12-24-17-1
"Administrator" defined

Sec. 1. (a) As used in this chapter, "administrator" means a person who is the administrative head of a hospital, a sanitarium, an institution, an agency, or an instrumentality:

(1) maintained or provided by the United States or an agency or instrumentality of the United States; and

(2) where mental illnesses or developmental disabilities are treated.

(b) The term, for purposes of this chapter and a court order, includes successors in office.

As added by P.L.2-1992, SEC.18. Amended by P.L.6-1995, SEC.19.

IC 12-24-17-2
"Patient" defined

Sec. 2. As used in this chapter, "patient" means an individual who:

(1) has a mental illness or appears to have a mental illness;

(2) is in or under the supervision and control of a state institution; or

(3) because of mental illness, is under the supervision and control of a circuit or superior court of Indiana.

As added by P.L.2-1992, SEC.18. Amended by P.L.99-2007, SEC.119.

IC 12-24-17-3
Neglect, abuse, or maltreatment of a patient in a state institution; penalty

Sec. 3. A person who:

(1) neglects, when the person has a duty of care;

(2) abuses; or

(3) maltreats;

an individual with a mental illness or an individual with a developmental disability under the care of a state institution commits a Class B misdemeanor.

As added by P.L.2-1992, SEC.18. Amended by P.L.6-1995, SEC.20; P.L.99-2007, SEC.120.

IC 12-24-17-4
Knowledge of alleged violation of IC 12-24-17-3; failure to make written report to superintendent

Sec. 4. A person who:

(1) knows of an alleged violation of section 3 of this chapter; and

(2) fails to make a written report to the superintendent within twenty-four (24) hours of the alleged violation;

commits a Class A infraction.

As added by P.L.2-1992, SEC.18.

IC 12-24-17-5

Receipt by superintendent of report of alleged violation; investigation; reporting requirements

Sec. 5. (a) A superintendent who receives a written report of an alleged violation of section 3 of this chapter shall begin an investigation within twenty-four (24) hours after receipt of the written report.

(b) In accordance with IC 31-33, the superintendent shall report the alleged violation of section 3 of this chapter to either of the following:

(1) The department of child services if the alleged victim is less than eighteen (18) years of age.

(2) The adult protective services unit designated under IC 12-10-3 if the alleged victim is at least eighteen (18) years of age.

As added by P.L.2-1992, SEC.18. Amended by P.L.4-1993, SEC.202; P.L.5-1993, SEC.215; P.L.1-1997, SEC.85; P.L.234-2005, SEC.78.

IC 12-24-17-6

Unauthorized dealing or contracting by state institution employee with or for a patient concerning money or property

Sec. 6. An employee of a state institution who does any of the following commits a Class B misdemeanor:

(1) Knowingly deals with, contracts with, purchases from, or purchases for a patient in the state institution any property without the permission of the superintendent.

(2) Lends to or borrows from a patient money or other property.

As added by P.L.2-1992, SEC.18.

IC 12-24-17-7

Enticing or taking a patient away or aiding a patient to escape from the custody of an administrator or a superintendent

Sec. 7. A person who:

(1) recklessly entices or takes a patient away; or

(2) aids, induces, or causes a patient to escape;

from an administrator or a superintendent who has been granted custody of the patient commits a Class B misdemeanor.

As added by P.L.2-1992, SEC.18.

IC 12-24-17-8

Releasing information concerning a patient's medical records or treatment without written consent of patient, parent, or guardian

Sec. 8. A person who knowingly or intentionally releases information concerning a patient's medical records or treatment under IC 12-24-11 or IC 16-39-2 without the knowing, written consent of the patient or the patient's parent or guardian commits a Class B infraction.

As added by P.L.2-1992, SEC.18. Amended by P.L.40-1994, SEC.53.

IC 12-24-18

Chapter 18. Conveyance of Undeveloped Real Property of State Institutions in Certain Counties

IC 12-24-18-1

Application of chapter to certain city

Sec. 1. This chapter applies to a city having a population of more than thirty-six thousand five hundred (36,500) but less than thirty-six thousand eight hundred twenty-five (36,825).

As added by P.L.147-1993, SEC.1. Amended by P.L.170-2002, SEC.82; P.L.119-2012, SEC.107.

IC 12-24-18-2

Applicability of chapter; conditions of real property

Sec. 2. This chapter applies only to real property that satisfies all of the following conditions:

(1) The real property is owned by the state and under the control of a state institution.

(2) The real property is undeveloped.

(3) The executive of the city identifies the real property through a legal description of the property.

(4) The state approves the legal description prepared under subdivision (3).

As added by P.L.147-1993, SEC.1.

IC 12-24-18-3

Conveyance or lease of property to city

Sec. 3. (a) Subject to this section, the state shall convey or lease the real property to the city.

(b) The conveyance or lease required by this section may be made in one (1) or more transactions.

(c) The city must use the real property for economic development projects.

(d) The conveyance or lease shall be made under terms and for the consideration that is agreed upon between the city and the state. However, the terms must require that all payments made under the conveyance or lease must be made directly to and for the use of the state institution.

As added by P.L.147-1993, SEC.1. Amended by P.L.120-1996, SEC.1.

IC 12-24-18-4

Lease pending conveyance of real property

Sec. 4. The state may lease any of the real property to the city pending the conveyance of the real property under this chapter.

As added by P.L.147-1993, SEC.1.

IC 12-24-18-5

Contracts relating to lease or conveyance; cash rent of farm lands

Sec. 5. (a) The state may enter into appropriate contracts with the

city related to the conveyance or lease of real property under this chapter.

(b) A contract entered into under this section or a deed given to the city to convey any of the real property under this chapter may contain any provision that the state considers necessary if the provision is consistent with this chapter.

(c) Notwithstanding any lease or conveyance authorized by this chapter, the state institution shall continue to cash rent the real property for farming purposes until the city actually begins development of the real property for an economic development project.

As added by P.L.147-1993, SEC.1.

IC 12-24-18-6

Laws relating to state contracts, leases, and conveyances; applicability; proceeds

Sec. 6. (a) Except as provided in this chapter, the procedures required by law for the state to:

(1) enter into contracts affecting the state's real property; or

(2) convey or lease the state's real property;

apply to a contract, conveyance, or lease under this chapter.

(b) Notwithstanding any other law, if the state sells or leases real property under this chapter, the proceeds from that sale or lease are reappropriated to the state institution.

(c) The proceeds from the sale or lease of real property under this chapter may not reduce the amount of state appropriations otherwise available to the state institution.

As added by P.L.147-1993, SEC.1. Amended by P.L.120-1996, SEC.2.

IC 12-24-19

Chapter 19. Community Care for Individuals With Mental Illness

IC 12-24-19-1

Applicability of chapter

Sec. 1. (a) This chapter applies only to a patient who is transferred or discharged from a state institution administered by the division of mental health and addiction.

(b) This chapter does not apply to any of the following:

(1) An individual who is admitted to a state institution only for evaluation purposes.

(2) An individual who is incompetent to stand trial.

(3) An individual who has a developmental disability (as defined in IC 12-7-2-61).

(4) An individual in an alcohol and drug services program who is not concurrently diagnosed with a mental illness.

(5) An individual who has escaped from the facility to which the individual was involuntarily committed.

(6) An individual who was admitted to a facility for voluntary treatment and who has left the facility against the advice of the attending physician.

As added by P.L.40-1994, SEC.54. Amended by P.L.215-2001, SEC.70; P.L.99-2007, SEC.121.

IC 12-24-19-2

Repealed

(Repealed by P.L.143-2011, SEC.31.)

IC 12-24-19-3

Discharge or transfer from institution to least restrictive setting

Sec. 3. A patient shall be discharged or transferred from a state institution to the least restrictive setting:

(1) when the discharge or transfer is appropriate to the patient's unique needs;

(2) to prevent unnecessary and inappropriate hospitalization; and

(3) in accordance with standards of professional practice.

As added by P.L.40-1994, SEC.54.

IC 12-24-19-4

Continuum of care

Sec. 4. Within the limits of appropriated funds, the division shall provide by written contract a continuum of care in the community for appropriate patients who are discharged or transferred under this chapter that does the following:

(1) Integrates services.

(2) Facilitates provision of appropriate services to patients.

(3) Ensures continuity of care, so that a patient is not discharged or transferred without adequate and appropriate community

services.

(4) Provides services that:

(A) promote behavioral health; and

(B) prevent and treat mental illness and addiction.

As added by P.L.40-1994, SEC.54. Amended by P.L.143-2011, SEC.28.

IC 12-24-19-5

Maximization of funding

Sec. 5. To the extent possible, the director shall maximize the amount of federal funding and other nonstate funds available for providing the continuum of care in the community required by this chapter.

As added by P.L.40-1994, SEC.54.

IC 12-24-19-6

Community services

Sec. 6. The director shall do the following to facilitate the timely development and delivery of community services:

(1) Adopt rules under IC 4-22-2.

(2) Develop policies and administrative practices.

As added by P.L.40-1994, SEC.54.

IC 12-24-19-7

Transitional care

Sec. 7. (a) As used in this section, "transitional care" means temporary treatment services to facilitate an individual's:

(1) transfer from a mental health institution to a community residential setting; or

(2) discharge from a mental health institution.

(b) The transitional care program shall assist consumers in making a smooth adjustment to community living and operate in collaboration with a community mental health center of services in the consumer's home area.

(c) Resources for the program shall come from the total appropriation for the facility, and may be adjusted to meet the needs of consumer demand by the director.

(d) Each state institution administered by the division of mental health and addiction shall establish a transitional care program with adequate staffing patterns and employee skill levels for patients' transitional care needs where clinically appropriate.

(e) The transitional care program shall be staffed by transitional care specialists and at least one (1) transitional care case manager.

(f) A transitional care case manager must have at least a bachelor's degree and be trained in transitional care.

(g) Psychiatric attendants working in this program shall be trained, classified, and compensated as appropriate for a transitional care specialist.

As added by P.L.40-1994, SEC.54. Amended by P.L.215-2001, SEC.71; P.L.188-2013, SEC.17.

IC 12-25

ARTICLE 25. LICENSURE OF PRIVATE MENTAL HEALTH INSTITUTIONS

IC 12-25-1

Chapter 1. Licensure Requirement

IC 12-25-1-1

Physicians employed; facilities and accommodations

Sec. 1. A private institution for the treatment and care of individuals with psychiatric disorders, developmental disabilities, convulsive disturbances, or other abnormal mental conditions must meet the following conditions:

(1) Employ physicians holding an unlimited license to practice medicine available for medical care that individuals may reasonably be expected to need.

(2) Have the facilities and accommodations that the individuals may reasonably be expected to need.

As added by P.L.2-1992, SEC.19.

IC 12-25-1-2

Standards of treatment and care

Sec. 2. The standards of treatment and care to be maintained must be appropriate under existing knowledge of the needs of the individuals, as determined by the director. The director shall prescribe minimum standards for the private institutions and for the care and treatment provided in the private institutions as set forth in IC 12-21-2-3(5).

As added by P.L.2-1992, SEC.19.

IC 12-25-1-3

License required to establish, conduct, operate, or maintain institution

Sec. 3. A person must hold a license issued by the director to establish, conduct, operate, or maintain a private institution under any name for the treatment and care of individuals with psychiatric disorders, developmental disabilities, convulsive disturbances, or other abnormal mental conditions.

As added by P.L.2-1992, SEC.19.

IC 12-25-1-4

License application; form; showing required

Sec. 4. To obtain a license, an applicant must submit an application on a form prepared by the director showing that the applicant is of reputable and responsible character and able to comply with the following:

(1) The minimum standards for the institution.

(2) Rules adopted under IC 12-21-2-3(5).

As added by P.L.2-1992, SEC.19.

IC 12-25-1-5
License application; additional information

Sec. 5. An application must contain the following additional information:

(1) The name of the applicant.
(2) The type of institutions to be operated.
(3) The location of the institution.
(4) The name of the person to be in charge of the institution.
(5) Any other information the director requires.

As added by P.L.2-1992, SEC.19.

IC 12-25-1-6
License issued upon application; hearing on application

Sec. 6. The director may:

(1) issue a license upon an application without further evidence; or
(2) conduct a hearing on the application and conduct an investigation to determine whether a license should be granted.

As added by P.L.2-1992, SEC.19.

IC 12-25-1-7
Finding that license should not be granted; notification of applicant; reason for finding

Sec. 7. If after a hearing the director finds that a license should not be granted, the director shall notify the applicant, giving the reason for the finding.

As added by P.L.2-1992, SEC.19.

IC 12-25-1-8
Hearing; finding of compliance; issuance of license

Sec. 8. If after a hearing the director finds that an applicant complies and will in the future comply with this article and the rules adopted under IC 12-21-2-3(5), the director shall issue a license to the applicant to operate the institution.

As added by P.L.2-1992, SEC.19.

IC 12-25-1-9
License; duration; assignability; premises covered; posting; renewal

Sec. 9. A license to operate an institution:

(1) expires one (1) year after the date of issuance;
(2) is not assignable or transferable;
(3) shall be issued only for the premises named in the application;
(4) shall be posted in a conspicuous place in the institution; and
(5) is renewable on an annual basis.

As added by P.L.2-1992, SEC.19.

IC 12-25-2

Chapter 2. Suspension or Revocation of License

IC 12-25-2-1

Grounds

Sec. 1. The director may suspend or revoke a license issued under this article on any of the following grounds:

(1) Violation of a provision of this article or the rules adopted under IC 12-21-2-3(5).

(2) Permitting, aiding, or abetting the commission of an illegal act in the institution.

(3) Conduct or practice found by the director to be detrimental to the welfare of individuals in the institution.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-2

Complaint

Sec. 2. To suspend or revoke a license, the director must file a complaint stating facts constituting grounds for revocation or suspension.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-3

Notice of hearing

Sec. 3. A licensee is entitled to notice of not less than thirty (30) days of the time and place for a hearing before the director on the complaint. The notice shall be sent by registered mail to the licensee at the address shown in the licensee's application.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-4

Representation by counsel

Sec. 4. The licensee is entitled to be represented by legal counsel at the hearing.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-5

Director; authority to suspend license after hearing

Sec. 5. The director, after a hearing, may suspend or revoke the license.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-6

Conditions to be met to resume operations following license suspension

Sec. 6. If the director suspends a license, the director may also recommend the conditions to be met by the licensee during the period of suspension to entitle the licensee to resume operation of the institution on the existing license.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-7

Order entered in accordance with suspension or revocation

Sec. 7. If the director suspends or revokes a license, the director shall enter an order in accordance with the suspension or revocation in which the grounds of the suspension or revocation are set forth.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-8

Holding case under advisement; requirements of licensee to avoid suspension or revocation; order; compliance by licensee

Sec. 8. (a) The director may, after a hearing, hold a case under advisement and make a recommendation of the requirements to be met by the licensee to avoid suspension or revocation. The director shall enter an order accordingly and notify the licensee of the finding by registered mail.

(b) If the licensee complies with the order and proves that fact to the satisfaction of the director, the director shall enter an order showing satisfactory compliance and dismissing the case because of the compliance.

As added by P.L.2-1992, SEC.19.

IC 12-25-3

Chapter 3. Appeal Procedure

IC 12-25-3-1

Appeals by applicants or licensees; court to which appeal taken; notice; bond

Sec. 1. A licensee or an applicant for a license aggrieved by an action of the director may appeal the action to the circuit or superior court in the county in which the institution in question is located or is proposed to be located by filing a notice and bond in the amount of two hundred dollars ($200) for the payment of costs in the office of the circuit court clerk of the county.

As added by P.L.2-1992, SEC.19.

IC 12-25-3-2

Notification of director that appeal has been taken

Sec. 2. The circuit court clerk shall notify the director that the appeal has been taken.

As added by P.L.2-1992, SEC.19.

IC 12-25-3-3

Certification to court of copies of complaint and order or application and order

Sec. 3. The director shall cause to be certified to the appropriate court a copy of:

(1) the complaint and the order for a suspension or revocation; or

(2) the application and order of refusal of a license.

As added by P.L.2-1992, SEC.19.

IC 12-25-3-4

Docketing of case; parties; no further pleadings necessary

Sec. 4. (a) The case shall be docketed as a civil action, with the applicant or licensee as the plaintiff and the director as the defendant.

(b) No further pleading is necessary.

As added by P.L.2-1992, SEC.19.

IC 12-25-3-5

Jurisdiction of court; order

Sec. 5. The court has jurisdiction to the extent that courts exercise jurisdiction over administrative bodies and may enter an order either sustaining the action of the director or setting the action aside.

As added by P.L.2-1992, SEC.19.

IC 12-25-3-6

Certification of decision to director

Sec. 6. The circuit court clerk shall certify to the director a copy of the decision of the court.

As added by P.L.2-1992, SEC.19.

IC 12-25-3-7

Appeal by party aggrieved by decision of court

Sec. 7. An appeal may be made by the aggrieved party from the decision of the court.

As added by P.L.2-1992, SEC.19.

IC 12-25-4
Chapter 4. Injunction Procedure

IC 12-25-4-1
Actions to enjoin establishing, conducting, managing, or operating institution without having license

Sec. 1. The director may, in accordance with the laws governing injunctions, maintain an action in the name of the state to enjoin a person from establishing, conducting, managing, or operating an institution for the treatment and care of persons with psychiatric disorders, developmental disabilities, convulsive disturbances, or other abnormal mental conditions without having a license as required by this article.

As added by P.L.2-1992, SEC.19.

IC 12-25-4-2
Complaint; sufficiency of allegations

Sec. 2. In charging a defendant in a complaint for an injunction, it is sufficient to allege that the person did upon a certain day and in a certain county establish, conduct, manage, or operate the institution without having a license to do so. The director need not aver any further or more particular facts concerning the matter.

As added by P.L.2-1992, SEC.19.

IC 12-26

ARTICLE 26. VOLUNTARY AND INVOLUNTARY TREATMENT OF MENTALLY ILL INDIVIDUALS

IC 12-26-1

Chapter 1. Jurisdiction and Procedure

IC 12-26-1-1

Statutes under which mentally ill and either dangerous or gravely disabled may be involuntarily detained or committed

Sec. 1. An individual who is mentally ill and either dangerous or gravely disabled may be involuntarily detained or committed under any of the following statutes:

(1) IC 12-26-4 (immediate detention).
(2) IC 12-26-5 (emergency detention).
(3) IC 12-26-6 (temporary commitment).
(4) IC 12-26-7 (regular commitment).

As added by P.L.2-1992, SEC.20.

IC 12-26-1-2

Courts having jurisdiction of proceedings under article; exceptions

Sec. 2. Except as provided in sections 3 and 4 of this chapter, the following Indiana courts have jurisdiction over a proceeding under this article:

(1) A court having probate jurisdiction.
(2) A superior court in a county in which the circuit court has exclusive probate jurisdiction.
(3) A mental health division of a superior court to the extent the mental health division has jurisdiction under IC 33-33-49.

As added by P.L.2-1992, SEC.20. Amended by P.L.16-1995, SEC.4; P.L.98-2004, SEC.94; P.L.201-2011, SEC.9.

IC 12-26-1-3

Hearing required to be held by IC 35-36-2-4

Sec. 3. A court that conducted the trial has jurisdiction over a hearing required to be held by IC 35-36-2-4. The court retains jurisdiction over the individual held under IC 35-36-2-4 until the completion of the commitment hearing. After completion of the commitment hearing, jurisdiction is transferred to a court having jurisdiction under section 2 of this chapter and all subsequent petitions or motions shall be filed with the court to which the proceeding is transferred. The file of the commitment hearing also shall be transferred from the committing court to the court having probate jurisdiction.

As added by P.L.2-1992, SEC.20.

IC 12-26-1-4

Juvenile court; placement only in child caring institutions; transfer of proceedings

Sec. 4. (a) A juvenile court has concurrent jurisdiction over

proceedings under this article that involve a child.

(b) The juvenile court may not commit or temporarily place a child under this article in a facility other than a child caring institution. If the juvenile court determines that commitment or temporary placement of a child in another facility is necessary, the juvenile court shall transfer the proceeding to a court having probate jurisdiction.

As added by P.L.2-1992, SEC.20.

IC 12-26-1-5

Commitment proceedings; acquisition and retention of jurisdiction

Sec. 5. (a) If a commitment proceeding is begun under IC 12-26-3-5, IC 12-26-6-2(a)(1), or IC 12-26-6-2(a)(3), the court acquires jurisdiction over the individual alleged to have a mental illness by service of summons on the individual according to the Indiana Rules of Trial Procedure or by entry of an appearance by the individual.

(b) If an individual is being held under IC 12-26-6-2(a)(2), the court retains jurisdiction over the individual by the court's order for continued detention.

As added by P.L.2-1992, SEC.20. Amended by P.L.99-2007, SEC.122.

IC 12-26-1-6

Conduct of judicial proceedings; rules of procedure

Sec. 6. Except as otherwise provided, a judicial proceeding under this article shall be conducted as other civil proceedings according to the Indiana Rules of Trial Procedure.

As added by P.L.2-1992, SEC.20.

IC 12-26-1-7

Computation of time; application of section

Sec. 7. (a) This section does not apply in the following statutes:

(1) IC 12-26-4.

(2) IC 12-26-11.

(3) IC 12-26-12.

(b) This section does not apply to computation of a period during which an individual may be detained under this article.

(c) In computing time under this article, Saturdays, Sundays, and legal holidays are not included in the computation if the time prescribed is less than fourteen (14) days.

As added by P.L.2-1992, SEC.20.

IC 12-26-1-8

Proceedings under IC 12-26-3-5, IC 12-26-6, or IC 12-26-7; detention of individual

Sec. 8. Upon the filing of a petition for commitment under IC 12-26-6 or IC 12-26-7 or the filing of a report under IC 12-26-3-5, the individual may be detained in an appropriate facility:

(1) by an order of the court pending a hearing; or

(2) pending an order of the court under:
(A) IC 12-26-3-6;
(B) IC 12-26-5-10; or
(C) IC 12-26-5-11.
As added by P.L.2-1992, SEC.20.

IC 12-26-1-9
Appeals; persons entitled to take; manner of taking

Sec. 9. (a) In a proceeding involving involuntary detention or commitment under this article, appeals from the final orders or judgments of the court of original jurisdiction may be taken by any of the following:
(1) The individual who is the subject of the proceeding.
(2) A petitioner in the proceeding.
(3) An aggrieved person.
(b) An appeal must be taken in the same manner as any other civil case according to the Indiana Rules of Trial and Appellate Procedure.
As added by P.L.2-1992, SEC.20.

IC 12-26-1-10
Rules

Sec. 10. Each division shall adopt rules under IC 4-22-2 to administer this article.
As added by P.L.2-1992, SEC.20.

IC 12-26-1-11
Forms

Sec. 11. Each division shall prescribe the forms that must be used to administer this article.
As added by P.L.2-1992, SEC.20.

IC 12-26-2

Chapter 2. Rights of Persons

IC 12-26-2-1

Habeas corpus

Sec. 1. This article does not limit or restrict the right of a person to apply to an appropriate court for a writ of habeas corpus.

As added by P.L.2-1992, SEC.20.

IC 12-26-2-2

Notice of hearings; receipt of copies of petitions or orders; presence at hearings; application of section

Sec. 2. (a) This section applies under the following statutes:

(1) IC 12-26-6.

(2) IC 12-26-7.

(3) IC 12-26-12.

(4) IC 12-26-15.

(b) The individual alleged to have a mental illness has the following rights:

(1) To receive adequate notice of a hearing so that the individual or the individual's attorney can prepare for the hearing.

(2) To receive a copy of a petition or an order relating to the individual.

(3) To be present at a hearing relating to the individual. The individual's right under this subdivision is subject to the court's right to do the following:

(A) Remove the individual if the individual is disruptive to the proceedings.

(B) Waive the individual's presence at a hearing if the individual's presence would be injurious to the individual's mental health or well-being.

(4) To be represented by counsel.

As added by P.L.2-1992, SEC.20. Amended by P.L.99-2007, SEC.123.

IC 12-26-2-3

Testimony and witnesses; application of section

Sec. 3. (a) This section applies under the following statutes:

(1) IC 12-26-6.

(2) IC 12-26-7.

(3) IC 12-26-12.

(4) IC 12-26-15.

(b) The individual alleged to have a mental illness, each petitioner, and all other interested individuals shall be given an opportunity to appear at hearings and to testify.

(c) The individual alleged to have a mental illness and each petitioner may present and cross-examine witnesses at hearings.

(d) The court may receive the testimony of any individual.

As added by P.L.2-1992, SEC.20. Amended by P.L.99-2007, SEC.124.

IC 12-26-2-4

Change of judge; venue not to change; application of section

Sec. 4. (a) This section applies under the following statutes:

(1) IC 12-26-6.

(2) IC 12-26-7.

(3) IC 12-26-12.

(4) IC 12-26-15.

(b) The individual alleged to have a mental illness and a petitioner:

(1) has a right to a change of judge; and

(2) is not entitled to a change of venue from the county.

As added by P.L.2-1992, SEC.20. Amended by P.L.99-2007, SEC.125.

IC 12-26-2-5

Representation by counsel; appointment; proof required by petitioner

Sec. 5. (a) This section applies under the following statutes:

(1) IC 12-26-6.

(2) IC 12-26-7.

(3) IC 12-26-12.

(4) IC 12-26-15.

(b) A petitioner may be represented by counsel.

(c) The court may appoint counsel for a petitioner upon a showing of the petitioner's indigency and the court shall pay for such counsel if appointed.

(d) A petitioner, including a petitioner who is a health care provider under IC 16-18-2-295(b), in the petitioner's individual capacity or as a corporation is not required to be represented by counsel. If a petitioner who is a corporation elects not to be represented by counsel, the individual representing the corporation at the commitment hearing must present the court with written authorization from:

(1) an officer;

(2) a director;

(3) a principal; or

(4) a manager;

of the corporation that authorizes the individual to represent the interest of the corporation in the proceedings.

(e) The petitioner is required to prove by clear and convincing evidence that:

(1) the individual is mentally ill and either dangerous or gravely disabled; and

(2) detention or commitment of that individual is appropriate.

As added by P.L.2-1992, SEC.20. Amended by P.L.1-1993, SEC.152; P.L.2-1995, SEC.60; P.L.6-1995, SEC.21; P.L.256-1999, SEC.2; P.L.14-2000, SEC.33; P.L.1-2007, SEC.126.

IC 12-26-2-6

Participation in proceedings or assisting in detention or care of individual; immunity from liability

Sec. 6. (a) A person who without malice, bad faith, or negligence acts according to this article and:

(1) participates in proceedings for the detention or commitment of an individual; or

(2) assists in the detention, care, and treatment of an individual alleged or adjudged to have a mental illness;

is immune from any civil or criminal liability that might otherwise be imposed as a result of the person's actions.

(b) The immunity provided by this section does not permit a person to do either of the following:

(1) Physically abuse an individual.

(2) Deprive an individual of a personal or civil right except according to this article.

As added by P.L.2-1992, SEC.20. Amended by P.L.99-2007, SEC.126.

IC 12-26-2-7

Child's advocate; immunity from civil liability

Sec. 7. Except for gross misconduct, if a child's advocate performs the advocate's duties in good faith, the advocate is immune from any civil liability that may occur as a result of the advocate's performance of duties.

As added by P.L.2-1992, SEC.20.

IC 12-26-2-8

Detention or commitment; rights not affected

Sec. 8. (a) Detention or commitment of an individual under this article does not deprive the individual of any of the following:

(1) The right to do the following:

(A) Dispose of property.

(B) Execute instruments.

(C) Make purchases.

(D) Enter into contracts.

(E) Give testimony in a court of law.

(F) Vote.

(2) A right of a citizen not listed in subdivision (1).

(b) A procedure is not required for restoration of rights of citizenship of an individual detained or committed under this article.

As added by P.L.2-1992, SEC.20.

IC 12-26-2-9

Refusal to admit; transfer to division

Sec. 9. (a) The superintendent of a state institution may decline to admit an individual if the superintendent determines that there is not available adequate space, treatment staff, and treatment services appropriate to the needs of the individual.

(b) If an individual is refused admission under subsection (a), the commitment shall be transferred to the appropriate division. The division shall make arrangements for the individual's admission to an appropriate facility.

As added by P.L.2-1992, SEC.20. Amended by P.L.6-1995, SEC.22.

IC 12-26-3

Chapter 3. Voluntary Treatment

IC 12-26-3-1

Admission by facility superintendent or by attending physician

Sec. 1. The superintendent of a facility or an individual's attending physician may admit an Indiana resident who:

(1) has a mental illness or has symptoms of mental illness; and

(2) makes an appropriate application;

for observation, diagnosis, care, or treatment.

As added by P.L.2-1992, SEC.20. Amended by P.L.99-2007, SEC.127.

IC 12-26-3-2

Application by parent or legal guardian

Sec. 2. (a) If an individual is less than eighteen (18) years of age, an application under this chapter may be made by the individual's parent or legal guardian.

(b) If an individual is at least eighteen (18) years of age and has a legal guardian, that individual may not be admitted by the individual's legal guardian to a state institution under this chapter.

As added by P.L.2-1992, SEC.20. Amended by P.L.6-1995, SEC.23.

IC 12-26-3-3

Discharge by facility superintendent or by attending physician; grounds

Sec. 3. The superintendent or an individual's attending physician may discharge an individual admitted under this chapter if the superintendent or the attending physician determines that:

(1) care in the facility is not necessary; or

(2) the discharge would contribute to the most effective use of the facility for the care and treatment of individuals with a mental illness.

As added by P.L.2-1992, SEC.20. Amended by P.L.99-2007, SEC.128.

IC 12-26-3-4

Written request for release; time for release

Sec. 4. Except as provided in section 5 of this chapter, an individual who has been admitted to a facility under this chapter shall be released within twenty-four (24) hours of a written request for release made to the superintendent or the individual's attending physician by:

(1) the individual; or

(2) if the individual is less than eighteen (18) years of age, the parent or guardian who applied for the individual's admission to the facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-3-5

Refusal to release individual; grounds; written report to court

Sec. 5. (a) The superintendent or the attending physician is not required to release an individual under section 4 of this chapter if the superintendent or the attending physician has reason to believe the individual is mentally ill and either dangerous or gravely disabled.

(b) If the superintendent or the attending physician makes a determination under subsection (a), the superintendent or the attending physician must make a written report to a court:

(1) that has jurisdiction;

(2) in the county:

(A) of the residence of the individual; or

(B) where the facility is located; and

(3) not later than five (5) days of receiving the request made under section 4 of this chapter.

(c) A report under subsection (b) must:

(1) state that there is probable cause to believe that the individual is mentally ill and either dangerous or gravely disabled;

(2) state that the individual requires continuing care and treatment in the facility; and

(3) request a hearing on the report.

As added by P.L.2-1992, SEC.20.

IC 12-26-3-6

Receipt by court of written report; setting preliminary hearing; ordering final hearing

Sec. 6. The court shall, within two (2) days from the date of receiving a report made under section 5 of this chapter, do either of the following:

(1) Set a preliminary hearing to determine if there is probable cause to believe that the individual is:

(A) mentally ill and either dangerous or gravely disabled; and

(B) in need of temporary or regular commitment.

(2) Order a final hearing to be held within two (2) days of the order to determine if the individual is:

(A) mentally ill and either dangerous or gravely disabled; and

(B) in need of temporary or regular commitment.

As added by P.L.2-1992, SEC.20.

IC 12-26-3-7

Preliminary hearing; introduction of physician's statement; probable cause finding; discharge or commitment

Sec. 7. (a) A physician's statement may be introduced into evidence at the preliminary hearing without the presence of the physician.

(b) A finding of probable cause may not be entered at the preliminary hearing unless there is oral testimony:

(1) subject to cross-examination;

(2) of at least one (1) witness who:

(A) has personally observed the behavior of the individual; and

(B) will testify as to facts supporting a finding that there is probable cause to believe that the individual is in need of temporary or regular commitment.

(c) If after the preliminary hearing the court does not find probable cause, the individual shall be discharged immediately.

(d) If after the preliminary hearing the court finds probable cause to believe that the individual is in need of temporary or regular commitment, the court shall order the detention of the individual in an appropriate facility pending a final hearing.

As added by P.L.2-1992, SEC.20.

IC 12-26-3-8

Final hearing held after preliminary hearing; testimony of examining physician; waiver

Sec. 8. (a) If the court sets a preliminary hearing under section 6(1) of this chapter, a final hearing shall be held not later than ten (10) days after the date of the preliminary hearing.

(b) At the final hearing, an individual may not be found in need of temporary or regular commitment unless at least one (1) physician who has personally examined the individual testifies at the hearing.

(c) The testimony required by subsection (b) may be waived by the individual if the waiver is voluntarily and knowingly given.

As added by P.L.2-1992, SEC.20.

IC 12-26-3-9

Temporary or regular commitment

Sec. 9. (a) If an individual has not previously been the subject of a commitment proceeding, the court may only order temporary commitment.

(b) If an individual has previously been the subject of a commitment proceeding, the court may order a regular commitment if a longer period of treatment is warranted.

As added by P.L.2-1992, SEC.20.

IC 12-26-4

Chapter 4. Immediate Detention

IC 12-26-4-1

Law enforcement officers; authority to apprehend, transport, and charge an individual with a mental illness

Sec. 1. A law enforcement officer, having reasonable grounds to believe that an individual has a mental illness, is either dangerous or gravely disabled, and is in immediate need of hospitalization and treatment, may do the following:

(1) Apprehend and transport the individual to the nearest appropriate facility. The individual may not be transported to a state institution.

(2) Charge the individual with an offense if applicable.

As added by P.L.2-1992, SEC.20. Amended by P.L.40-1994, SEC.55; P.L.99-2007, SEC.129; P.L.4-2013, SEC.1.

IC 12-26-4-1.5

Court's authority to order an individual transported for psychological evaluation

Sec. 1.5. If a court has reasonable grounds to believe that an individual:

(1) has a mental illness;

(2) is either dangerous or gravely disabled; and

(3) is in immediate need of hospitalization and treatment;

the court may order a law enforcement officer to transport the individual to the nearest appropriate facility for a preliminary medical and psychological evaluation. The individual may not be transported to a state institution.

As added by P.L.62-2012, SEC.1. Amended by P.L.4-2013, SEC.2.

IC 12-26-4-2

Law enforcement officers; written statement of reasonable grounds

Sec. 2. A law enforcement officer who transports an individual to a facility under section 1 of this chapter shall submit to the facility a written statement containing the basis for the officer's conclusion that reasonable grounds exist under this chapter.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-3

Law enforcement officers; written statement of reasonable grounds; filing

Sec. 3. The statement required by section 2 of this chapter shall be filed with both of the following:

(1) The individual's records at the facility.

(2) The appropriate court if action relating to any charges filed by the officer against the individual is pursued.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-4

Emergency treatment

Sec. 4. The superintendent of the facility or a physician may furnish emergency treatment necessary to preserve the health and safety of the individual detained.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-5

Length of detention

Sec. 5. Except as provided in section 6 of this chapter, an individual may not be detained under this chapter for more than twenty-four (24) hours from the time of admission to the facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-6

Detaining individual for more than 24 hours; emergency detention application

Sec. 6. If the superintendent or the attending physician believes the individual should be detained for more than twenty-four (24) hours from time of admission to the facility, the superintendent or the physician must have an application filed for emergency detention under IC 12-26-5 immediately upon the earlier of the following:

(1) A judge becomes available.

(2) Within seventy-two (72) hours of admission to the facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-7

Discharge

Sec. 7. An individual detained under this chapter shall be discharged if either the attending physician or superintendent believes detention is no longer necessary.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-8

Detention in addition to detention under IC 12-26-5

Sec. 8. A period of detention under this chapter is in addition to a period of detention under IC 12-26-5.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-9

County required to pay certain costs if an individual is determined not to be mentally ill

Sec. 9. If it is determined that there were not reasonable grounds to believe that an individual had a mental illness and was either dangerous or gravely disabled when taken into custody and transported to a facility to be detained under section 1.5 of this chapter, the costs of transportation to the facility and care and maintenance in the facility during the period of detention shall be paid by the county in which the individual was taken into custody.

As added by P.L.62-2012, SEC.2. Amended by P.L.4-2013, SEC.3.

IC 12-26-5

Chapter 5. Emergency Detention

IC 12-26-5-1

72 hour detention; written application; contents

Sec. 1. (a) An individual may be detained in a facility for not more than seventy-two (72) hours under this chapter, excluding Saturdays, Sundays, and legal holidays, if a written application for detention is filed with the facility. The individual may not be detained in a state institution unless the detention is instituted by the state institution.

(b) An application under subsection (a) must contain both of the following:

(1) A statement of the applicant's belief that the individual is:

(A) mentally ill and either dangerous or gravely disabled; and

(B) in need of immediate restraint.

(2) A statement by at least one (1) physician that, based on:

(A) an examination; or

(B) information given the physician;

the individual may be mentally ill and either dangerous or gravely disabled.

As added by P.L.2-1992, SEC.20. Amended by P.L.1-1993, SEC.153; P.L.40-1994, SEC.56.

IC 12-26-5-2

Judicial officer; endorsement of application; police officer authorized to take individual into custody; transportation to facility

Sec. 2. (a) If a judicial officer authorized to issue a warrant for arrest in the county in which the individual is present endorses an application made under section 1 of this chapter, the application authorizes a police officer to take the individual into custody and transport the individual to a facility.

(b) The expense of transportation under this section shall be paid by the county in which the individual is present.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-3

Examination and treatment of detained individual

Sec. 3. An individual detained under this chapter may be examined and given emergency treatment necessary to do the following:

(1) Preserve the health and safety of the individual.

(2) Protect other persons and property.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-4

Determination during detention that probable cause does not exist; report

Sec. 4. If during a detention period under this chapter the superintendent or the attending physician determines that there is not

probable cause to believe the individual is mentally ill and either dangerous or gravely disabled, a report shall be made under section 5 of this chapter.
As added by P.L.2-1992, SEC.20.

IC 12-26-5-5
Written report to court

Sec. 5. Before the end of a detention period under this chapter, the superintendent of the facility or the individual's attending physician shall make a written report to the court. The report must contain both of the following:

(1) A statement that the individual has been examined.

(2) A statement whether there is probable cause to believe that the individual:

(A) is mentally ill and either dangerous or gravely disabled; and

(B) requires continuing care and treatment.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-6
Written report; no probable cause; discharge; record

Sec. 6. (a) If a report made under section 5 of this chapter states there is not probable cause, the individual shall be discharged from the facility.

(b) The report shall be made part of the individual's record.
As added by P.L.2-1992, SEC.20.

IC 12-26-5-7
Written report; probable cause; recommendations; hearing; detention pending hearing

Sec. 7. If a report made under section 5 of this chapter states there is probable cause, the report shall recommend both of the following:

(1) That the court hold a hearing to determine whether:

(A) the individual is mentally ill and either dangerous or gravely disabled; and

(B) there is a need for continuing involuntary detention.

(2) That the individual be detained in the facility pending the hearing.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-8
Written report; consideration and action by court; time

Sec. 8. The court shall consider and act upon a report described in section 7 of this chapter within twenty-four (24) hours of receiving the report.
As added by P.L.2-1992, SEC.20.

IC 12-26-5-9
Written report; action by court; release of individual; preliminary or final hearing ordered

Sec. 9. (a) After receiving a report described in section 7 of this chapter, the court may do any of the following:

(1) Order the individual released.

(2) Order the individual's continued detention pending a preliminary hearing. The purpose of a hearing under this subdivision is to determine if there is probable cause to believe that the individual is:

(A) mentally ill and either dangerous or gravely disabled; and

(B) in need of temporary or regular commitment.

(3) Order a final hearing. The purpose of a hearing ordered under this subdivision is to determine if the individual is:

(A) mentally ill and either dangerous or gravely disabled; and

(B) in need of temporary or regular commitment.

(b) A hearing ordered under subsection (a) must be held not later than two (2) days after the order.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-10

Preliminary hearing; introduction of physician's statement; probable cause finding; discharge; detention pending final hearing

Sec. 10. (a) A physician's statement may be introduced into evidence at the preliminary hearing held under section 9(a)(2) of this chapter without the presence of the physician.

(b) A finding of probable cause may not be entered at a preliminary hearing unless there is oral testimony:

(1) subject to cross-examination; and

(2) of at least one (1) witness who:

(A) has personally observed the behavior of the individual; and

(B) will testify to facts supporting a finding that there is probable cause to believe that the individual is in need of temporary or regular commitment.

(c) At the conclusion of the preliminary hearing, if the court does not find probable cause, the individual shall be immediately discharged.

(d) If the court finds at the conclusion of the preliminary hearing probable cause to believe that the individual needs temporary or regular commitment, the court shall order the detention of the individual in an appropriate facility pending a final hearing.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-11

Final hearing; time; testimony of examining physician; waiver; temporary or permanent commitment

Sec. 11. (a) A final hearing required by section 10(d) of this chapter shall be held within ten (10) days of the date of the preliminary hearing.

(b) At a final hearing, an individual may not be found in need of

temporary or regular commitment unless at least one (1) physician who has personally examined the individual testifies at the hearing. This testimony may be waived by the individual if the waiver is voluntarily and knowingly given.

(c) If an individual has not previously been the subject of a commitment proceeding, the court may order only a temporary commitment.

(d) If an individual has previously been the subject of a commitment proceeding, the court may order a regular commitment if a longer period of treatment is warranted.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-12

Determination of absence of probable cause when individual taken into custody; transportation, care, and maintenance costs

Sec. 12. If it is determined that there was not probable cause to believe that an individual had a mental illness and was dangerous when taken into custody and transported to the facility to be detained, the costs of transportation to and care and maintenance in the facility during the period of detention shall be paid by the county in which the individual was taken into custody.

As added by P.L.2-1992, SEC.20. Amended by P.L.99-2007, SEC.130.

IC 12-26-6

Chapter 6. Temporary Commitment

IC 12-26-6-1

90 day commitment of individuals who are mentally ill and either dangerous or gravely disabled

Sec. 1. An individual who is alleged to be mentally ill and either dangerous or gravely disabled may be committed to a facility for not more than ninety (90) days under this chapter.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-2

Methods by which commitment proceedings may be begun

Sec. 2. (a) A commitment under this chapter may be begun by any of the following methods:

(1) Upon request of the superintendent under IC 12-26-3-5.

(2) An order of the court having jurisdiction over the individual following emergency detention.

(3) Filing a petition with a court having jurisdiction in the county:

(A) of residence of the individual; or

(B) where the individual may be found.

(b) A petitioner under subsection (a)(3) must be at least eighteen (18) years of age.

(c) A petition under subsection (a)(3) must include a physician's written statement stating both of the following:

(1) The physician has examined the individual within the past thirty (30) days.

(2) The physician believes the individual is:

(A) mentally ill and either dangerous or gravely disabled; and

(B) in need of custody, care, or treatment in an appropriate facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-3

Notice of hearing

Sec. 3. (a) Notice of a hearing under this chapter shall be given to all of the following:

(1) The individual.

(2) The petitioner.

(3) The superintendent or the chief executive officer of a facility having care or custody of the individual.

(b) The notice required by subsection (a) must state the time, place, and date of the hearing.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-4

Hearing date

Sec. 4. (a) Within three (3) days after a proceeding is begun under

this chapter, the court shall enter an order setting a hearing date.

(b) If the proceeding was begun under section 2(a)(3) of this chapter, the hearing date set under subsection (a) must be more than one (1) day but less than fourteen (14) days from the date of notice.

(c) If the proceeding was begun under section 2(a)(1) or 2(a)(2) of this chapter, the hearing shall be held within ten (10) days after issuance of the order.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-5

Hearing site

Sec. 5. The court may hold the hearing at a facility or other suitable place not likely to have a harmful effect on the individual's health or well-being.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-6

Appointment of physician; examination of individual; report

Sec. 6. The court may appoint a physician to do the following:

(1) Examine the individual.

(2) Report, before the hearing, the physician's opinion as to the following:

(A) Whether the individual is mentally ill and either dangerous or gravely disabled.

(B) Whether the individual needs temporary commitment to a facility for diagnosis, care, and treatment.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-7

Report; dismissal of petition

Sec. 7. If a report made under section 6 of this chapter is that the individual is not either dangerous or gravely disabled, the court may terminate the proceedings and dismiss the petition. Otherwise, the hearing shall proceed as scheduled or as continued by the court.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-8

Order of commitment

Sec. 8. (a) If, upon the completion of the hearing and consideration of the record, the court finds that the individual is mentally ill and either dangerous or gravely disabled, the court may order the individual to:

(1) be committed to an appropriate facility; or

(2) enter an outpatient treatment program under IC 12-26-14 for a period of not more than ninety (90) days.

(b) The court's order must require that the superintendent of the facility or the attending physician file a treatment plan with the court within fifteen (15) days of the individual's admission to the facility under a commitment order.

(c) If the commitment ordered under subsection (a) is to a state

institution administered by the division of mental health and addiction, the record of commitment proceedings must include a report from a community mental health center stating both of the following:

(1) That the community mental health center has evaluated the individual.

(2) That commitment to a state institution administered by the division of mental health and addiction under this chapter is appropriate.

(d) The physician who makes the statement required by section 2(c) of this chapter may be affiliated with the community mental health center that submits to the court the report required by subsection (c).

(e) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

(f) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability and rehabilitative services under this chapter is appropriate.

(g) If the court makes a finding under subsection (a) (including a finding in reference to a child under IC 31-37-18-3), the court shall transmit any information required by the division of state court administration to the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

As added by P.L.2-1992, SEC.20. Amended by P.L.40-1994, SEC.57; P.L.6-1995, SEC.24; P.L.24-1997, SEC.57; P.L.215-2001, SEC.72; P.L.141-2006, SEC.67; P.L.110-2009, SEC.7.

IC 12-26-6-9

Discharge before end of commitment period; notification of court

Sec. 9. (a) Unless the court has entered an order under IC 12-26-12-1, the superintendent or the attending physician may discharge the individual before the end of the commitment period if the superintendent or attending physician determines that the individual is not mentally ill and either dangerous or gravely disabled.

(b) If an individual is discharged under subsection (a), the superintendent or the attending physician shall notify the court, and the court shall enter an order terminating the commitment.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-10

Additional commitment period; proceedings

Sec. 10. (a) The period of commitment of an individual under this

chapter may be extended for one (1) additional period of not more than ninety (90) days through a proceeding under this section.

(b) A proceeding under this section must be begun before the end of the first period of commitment.

(c) A proceeding under this section may be begun by filing with the court a report by the attending physician or superintendent that states that the individual continues to be:

(1) mentally ill and either dangerous or gravely disabled; and

(2) in need of continuing custody, care, or treatment in the facility for an additional period of not more than ninety (90) days.

(d) Upon receiving a report under subsection (c), the court shall set a hearing on the report.

(e) The hearing required by subsection (d) must be held before the end of the current commitment period.

(f) Notice of the hearing required by subsection (d) shall be given to the committed individual and all other interested individuals at least five (5) days before the hearing date.

(g) A committed individual's rights and a petitioner's rights and hearing procedures are the same as those provided for the first period of commitment.

(h) If at the completion of the hearing and the consideration of the record the individual is found to be:

(1) mentally ill and either dangerous or gravely disabled; and

(2) in need of continuing custody, care, or treatment in the facility;

the court may order the individual's continuing custody, care, or treatment in the facility for one (1) additional period of not more than ninety (90) days.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-11

Report required of facility superintendent or attending physician before end of commitment period

Sec. 11. At least twenty (20) days before the end of the first or second temporary commitment period, the superintendent of the facility or the attending physician shall make a report to the court that states all of the following:

(1) The mental condition of the individual.

(2) Whether the individual is dangerous or gravely disabled.

(3) Whether the individual needs continuing care and treatment in a facility for a period of more than ninety (90) days.

As added by P.L.2-1992, SEC.20.

IC 12-26-7

Chapter 7. Regular Commitment

IC 12-26-7-1

Application of chapter

Sec. 1. This chapter applies to a proceeding for commitment of an individual:

(1) alleged to be mentally ill and either dangerous or gravely disabled; and

(2) whose commitment is reasonably expected to require custody, care, or treatment in a facility for more than ninety (90) days.

As added by P.L.2-1992, SEC.20.

IC 12-26-7-2

Application of section; commitment of persons apparently suffering from chronic mental illness; initiation of proceedings; petition

Sec. 2. (a) This section does not apply to the commitment of an individual if the individual has previously been committed under IC 12-26-6.

(b) A proceeding for the commitment of an individual who appears to be suffering from a chronic mental illness may be begun by filing with a court having jurisdiction a written petition by any of the following:

(1) A health officer.

(2) A police officer.

(3) A friend of the individual.

(4) A relative of the individual.

(5) The spouse of the individual.

(6) A guardian of the individual.

(7) The superintendent of a facility where the individual is present.

(8) A prosecuting attorney in accordance with IC 35-36-2-4.

(9) A prosecuting attorney or the attorney for a county office if civil commitment proceedings are initiated under IC 31-34-19-3 or IC 31-37-18-3.

(10) A third party that contracts with the division of mental health and addiction to provide competency restoration services to a defendant under IC 35-36-3-3 or IC 35-36-3-4.

As added by P.L.2-1992, SEC.20. Amended by P.L.4-1993, SEC.203; P.L.5-1993, SEC.216; P.L.1-1997, SEC.86; P.L.77-2004, SEC.1.

IC 12-26-7-3

Petition; physician's written statement; reports

Sec. 3. (a) A petition filed under section 2 of this chapter must include a physician's written statement that states both of the following:

(1) The physician has examined the individual within the past thirty (30) days.

(2) The physician believes that the individual is:

(A) mentally ill and either dangerous or gravely disabled; and

(B) in need of custody, care, or treatment in a facility for a period expected to be more than ninety (90) days.

(b) Except as provided in subsection (d), if the commitment is to a state institution administered by the division of mental health and addiction, the record of the proceedings must include a report from a community mental health center stating both of the following:

(1) The community mental health center has evaluated the individual.

(2) Commitment to a state institution administered by the division of mental health and addiction under this chapter is appropriate.

(c) The physician who makes the statement required by subsection (a) may be affiliated with the community mental health center that makes the report required by subsection (b).

(d) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital, as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

(e) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability and rehabilitative services under this chapter is appropriate.

As added by P.L.2-1992, SEC.20. Amended by P.L.40-1994, SEC.58; P.L.6-1995, SEC.25; P.L.24-1997, SEC.58; P.L.215-2001, SEC.73; P.L.141-2006, SEC.68.

IC 12-26-7-4

Hearing date; rights of subject individual; hearing procedures

Sec. 4. (a) Upon receiving:

(1) a petition under section 2 of this chapter; or

(2) a report under IC 12-26-6-11 that recommends treatment in a facility for more than ninety (90) days;

the court shall enter an order setting a hearing date.

(b) If an individual is currently under a commitment order, the hearing required by subsection (a) must be held before the expiration of the current commitment period. Notice of a hearing under this subsection shall be given to the individual and all other interested persons at least five (5) days before the hearing date.

(c) The rights of an individual who is the subject of a proceeding under this chapter and of a petitioner are the same as provided in IC 12-26-6.

(d) Hearing procedures are the same as those provided in IC 12-26-6.

As added by P.L.2-1992, SEC.20.

IC 12-26-7-5

Finding that individual is mentally ill and either dangerous or gravely disabled; order for treatment; duration of order; transmittal of information to NICS

Sec. 5. (a) If at the completion of the hearing and the consideration of the record an individual is found to be mentally ill and either dangerous or gravely disabled, the court may enter either of the following orders:

(1) For the individual's custody, care, or treatment, or continued custody, care, or treatment in an appropriate facility.

(2) For the individual to enter an outpatient therapy program under IC 12-26-14.

(b) An order entered under subsection (a) continues until any of the following occurs:

(1) The individual has been:

(A) discharged from the facility; or

(B) released from the therapy program.

(2) The court enters an order:

(A) terminating the commitment; or

(B) releasing the individual from the therapy program.

(c) If the court makes a finding under subsection (a), the court shall transmit any information required by the division of state court administration to the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

As added by P.L.2-1992, SEC.20. Amended by P.L.110-2009, SEC.8.

IC 12-26-8

Chapter 8. Commitment of a Child

IC 12-26-8-1

Appointment of advocate or guardian; persons authorized to be appointed as advocate; representation and protection of child's best interests

Sec. 1. (a) A juvenile court that conducts a proceeding under this article shall appoint a court appointed special advocate, a guardian ad litem, or both for the child before the court begins a proceeding under this article.

(b) An advocate is not required to be an attorney.

(c) An attorney representing the child may be appointed as the child's advocate.

(d) The court may not appoint any of the following to be a child's advocate:

(1) A party to the proceeding.

(2) An employee of a party to the proceeding.

(3) A representative of a party to the proceeding.

(e) An advocate shall represent and protect the best interests of the child.

As added by P.L.2-1992, SEC.20.

IC 12-26-8-2

Advocate; officer of juvenile court

Sec. 2. A child's advocate is an officer of the juvenile court for the purpose of representing the child's interests.

As added by P.L.2-1992, SEC.20.

IC 12-26-8-3

Representation of advocate by counsel; appointment of counsel

Sec. 3. (a) A child's advocate may be represented by an attorney.

(b) If necessary to protect the child's interests, the juvenile court may appoint an attorney to represent an advocate of a child. The court may appoint only one (1) attorney under this subsection.

As added by P.L.2-1992, SEC.20.

IC 12-26-8-4

Commitment of child; review by advocate; assistance provided by facility superintendent

Sec. 4. (a) Within thirty (30) days after a child is first committed to a facility by a juvenile court, the child's advocate shall do all of the following:

(1) Visit the facility.

(2) Evaluate the services delivered to the child.

(3) Evaluate whether the commitment continues to be appropriate for the child.

(b) The child's advocate shall conduct a review similar to that required under subsection (a):

(1) sixty (60) days after the child is first committed;

(2) six (6) months after the child is first committed; and
(3) every six (6) months after the review required by subdivision (2).

(c) The superintendent of the facility shall provide necessary assistance to carry out the reviews required by this section.

As added by P.L.2-1992, SEC.20.

IC 12-26-8-5

Advocate reviews; report; recipients of report

Sec. 5. The child's advocate shall submit a report of each review required by section 4 of this chapter to all of the following:

(1) The committing juvenile court.
(2) The superintendent of the facility.
(3) A county office that has wardship of the child.
(4) Each party to the commitment proceeding.

As added by P.L.2-1992, SEC.20. Amended by P.L.4-1993, SEC.204; P.L.5-1993, SEC.217.

IC 12-26-8-6

Advocate; access to reports relevant to child; confidential reports

Sec. 6. (a) A child's advocate shall be given access to all reports relevant to the child.

(b) IC 31-39-2 applies to the release of reports that are confidential under IC 31-39-1.

As added by P.L.2-1992, SEC.20. Amended by P.L.1-1997, SEC.87.

IC 12-26-8-7

Payment of fees to be made under IC 31-6-4-18

Sec. 7. Payment of any fees shall be made under IC 31-40.

As added by P.L.2-1992, SEC.20. Amended by P.L.1-1997, SEC.88.

IC 12-26-8-8

Obligations of county offices to children under custody or supervision committed to state institutions

Sec. 8. If a child under the custody or supervision of a county office is committed to a state institution, the court may not release the county office from the county office's obligations to the child unless the court appoints a guardian for the child under IC 12-26-16.

As added by P.L.2-1992, SEC.20. Amended by P.L.4-1993, SEC.205; P.L.5-1993, SEC.218.

IC 12-26-8-9

Repealed

(Repealed by P.L.128-2012, SEC.18.)

IC 12-26-9

Chapter 9. Commitment to Facilities Owned by the United States Government

IC 12-26-9-1

Federal department defined

Sec. 1. As used in this chapter, "federal department" refers to the United States Department of Veterans Affairs.

As added by P.L.2-1992, SEC.20.

IC 12-26-9-2

Federal facility defined

Sec. 2. As used in this chapter, "federal facility" refers to a facility owned by the United States.

As added by P.L.2-1992, SEC.20.

IC 12-26-9-3

Court communications with federal department concerning availability of federal facilities and individual's eligibility for commitment

Sec. 3. If it is determined in a proceeding under this article that an individual:

(1) is mentally ill and either dangerous or gravely disabled;

(2) should be committed to a facility for custody, care, and treatment; and

(3) is a veteran who may be eligible for treatment in a federal facility;

the court may communicate with the federal department concerning the availability of federal facilities and the individual's eligibility to be committed to a federal facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-9-4

Commitment to federal facility

Sec. 4. Upon receiving information concerning availability and eligibility from the federal department, the court may commit an individual to a federal facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-9-5

Admission to federal facility; individual subject to rules and regulations of the facility

Sec. 5. Upon admission to a federal facility, an individual is subject to the rules and regulations of the federal facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-9-6

Federal facility hospital officers; powers with respect to detention and custody of individuals

Sec. 6. The hospital officers of a federal facility have the same

powers exercised by a superintendent under this article with respect to the detention and custody of an individual.
As added by P.L.2-1992, SEC.20.

IC 12-26-10

Chapter 10. Care Pending Admission to a Facility

IC 12-26-10-1

Court consultation with facility superintendent or attending physician

Sec. 1. If an individual is committed to a facility, the court shall consult with the superintendent or the attending physician concerning the method of caring for the individual pending admission to the facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-10-2

Temporary placement; least restrictive suitable facility

Sec. 2. The court may order temporary placement of the individual in the least restrictive suitable facility pending admission to a facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-10-3

Confinement in county jail

Sec. 3. An individual may not be confined in a county jail unless all the following apply:

(1) The individual is found to be dangerous and violent.

(2) There is no other suitable facility available pending admission to a facility.

(3) The court so orders.

As added by P.L.2-1992, SEC.20.

IC 12-26-10-4

Order that assistance be furnished and paid for out of county general fund

Sec. 4. If the comfort and the care of an individual are not otherwise provided:

(1) from the individual's estate;

(2) by the individual's relatives or friends; or

(3) through financial assistance from the department of child services or the division of family resources;

the court may order the assistance furnished and paid for out of the general fund of the county.

As added by P.L.2-1992, SEC.20. Amended by P.L.4-1993, SEC.207; P.L.5-1993, SEC.220; P.L.145-2006, SEC.126; P.L.146-2008, SEC.418.

IC 12-26-11

Chapter 11. Transfer of an Individual

IC 12-26-11-1

Transfers; facilities to which transfers may be made; best interest of individual transferred or other patients

Sec. 1. The superintendent of a facility to which an individual was committed under IC 12-26-6 or IC 12-26-7 or to which the individual's commitment was transferred under this chapter, may transfer the commitment of the individual to:

(1) a state institution;

(2) a community mental health center;

(3) a community mental retardation and other developmental disabilities center;

(4) a federal facility;

(5) a psychiatric unit of a hospital licensed under IC 16-21;

(6) a private psychiatric facility licensed under IC 12-25;

(7) a community residential program for the developmentally disabled described in IC 12-11-1.1-1(e)(1) or IC 12-11-1.1-1(e)(2); or

(8) an intermediate care facility for the mentally retarded (ICF/MR) that is licensed under IC 16-28 and is not owned by the state;

if the transfer is likely to be in the best interest of the individual or other patients.

As added by P.L.2-1992, SEC.20. Amended by P.L.2-1993, SEC.115; P.L.24-1997, SEC.59; P.L.272-1999, SEC.47.

IC 12-26-11-2

Declining to admit individual; grounds

Sec. 2. The superintendent of a facility to which the commitment of an individual is to be transferred may decline to admit the individual if the superintendent determines that adequate space, treatment staff, or treatment facilities appropriate to the needs of the individual are not available.

As added by P.L.2-1992, SEC.20.

IC 12-26-11-3

Medical and treatment records; providing copies to facilities to which individuals transferred

Sec. 3. If an individual is transferred under section 1 of this chapter, the transferring facility shall provide a copy of the individual's current medical and treatment records to the facility to which the commitment of the individual is transferred.

As added by P.L.2-1992, SEC.20.

IC 12-26-11-3.5

Transfer from state institution to nonstate community or facility; planning and facilitating transition

Sec. 3.5. If an individual is transferred under section 1 of this

chapter from a state institution administered by the division of mental health and addiction, the gatekeeper for the individual shall facilitate and plan, together with the individual and state institution, the individual's transition to the community or to another facility if the facility is not a state institution administered by the division of mental health and addiction.
As added by P.L.6-1995, SEC.26. Amended by P.L.215-2001, SEC.74.

IC 12-26-11-4
Notice of transfer; persons notified

Sec. 4. If the commitment of an individual is transferred to another facility under section 1 of this chapter, the transferring facility shall give written notice to each of the following:

(1) The individual's legal guardian.
(2) The individual's parents.
(3) The individual's spouse.
(4) The individual's attorney, if any.

As added by P.L.2-1992, SEC.20.

IC 12-26-11-5
Transfer to substantially more restrictive environment; administrative hearing

Sec. 5. (a) As used in this section, "substantially more restrictive environment" means another facility or that part of a facility that is designated as the place providing maximum security for patients.

(b) If the transfer of the commitment of an individual is to a substantially more restrictive environment, the transferring facility shall provide the individual with an opportunity for an administrative hearing within ten (10) days after the transfer.
As added by P.L.2-1992, SEC.20. Amended by P.L.40-1994, SEC.59.

IC 12-26-11-6
Petition to set aside transfer

Sec. 6. An individual whose commitment is transferred under section 1 of this chapter may, within thirty (30) days after the transfer, petition the committing court for an order setting aside the transfer and ordering the individual and the individual's medical and treatment records returned to the facility to which the court originally committed the individual.
As added by P.L.2-1992, SEC.20.

IC 12-26-12

Chapter 12. Notice of Discharge of an Individual

IC 12-26-12-1

Notification that committed individual will be discharged

Sec. 1. (a) Except as provided in subsection (c), a court that orders a commitment may order the superintendent to notify the petitioner in the commitment proceeding and other person designated by the court that the committed individual will be discharged.

(b) The notice required under subsection (a) shall be given to the petitioner and other person designated by the court at least twenty (20) days before the end of the commitment period.

(c) A court may not order the director of a community mental health center to notify the person who filed a petition with respect to an individual committed to the community mental health center.

As added by P.L.2-1992, SEC.20. Amended by P.L.40-1994, SEC.60; P.L.188-2013, SEC.18.

IC 12-26-12-2

Request by petitioner for hearing; notification of superintendent

Sec. 2. (a) Within ten (10) days after receiving a notice under section 1 of this chapter, the petitioner may file a petition with the court that ordered the committed individual's commitment requesting a hearing to determine whether the individual should be discharged.

(b) The petitioner must notify the superintendent of a petition filed with the court under subsection (a).

As added by P.L.2-1992, SEC.20.

IC 12-26-12-3

Absence of hearing request notice; discharge of individual

Sec. 3. If the superintendent does not receive notice of a request for a hearing within ten (10) days after notice was given under section 2 of this chapter, the committed individual shall be discharged unless the superintendent determines that the individual is mentally ill and either dangerous or gravely disabled.

As added by P.L.2-1992, SEC.20.

IC 12-26-12-4

Receipt by superintendent of hearing request notice; discharge of individual

Sec. 4. If the superintendent is notified of a petition under section 2 of this chapter, the committed individual may not be discharged except as provided in this chapter.

As added by P.L.2-1992, SEC.20.

IC 12-26-12-5

Petition; hearing date; failure to hold timely hearing; discharge of individual

Sec. 5. (a) If the court receives a petition under section 2 of this chapter, the court shall set a hearing date.

(b) The hearing date set under subsection (a) must be within twenty (20) days after the petition is filed.

(c) If a hearing is not held within twenty (20) days of the filing of the petition, the committed individual shall be discharged unless either of the following apply:

(1) The individual agrees to a continuance.

(2) The superintendent determines that the individual is mentally ill and either dangerous or gravely disabled.

As added by P.L.2-1992, SEC.20.

IC 12-26-12-6

Hearing; evidence; procedure; rights of committed individual

Sec. 6. At the hearing:

(1) the petitioner is entitled to present evidence concerning the committed individual's mental or physical condition;

(2) the procedure is the same as provided in IC 12-26-6; and

(3) the committed individual's rights are the same as provided in IC 12-26-6.

As added by P.L.2-1992, SEC.20.

IC 12-26-12-7

Finding that individual is not mentally ill and either dangerous or gravely disabled; discharge

Sec. 7. The court shall order the discharge of a committed individual and terminate the commitment if the court finds that the individual is not mentally ill and either dangerous or gravely disabled.

As added by P.L.2-1992, SEC.20.

IC 12-26-12-8

Appointment of guardian

Sec. 8. If the court does not order the discharge of the committed individual under section 7 of this chapter, the court may appoint a guardian to provide for the individual's continued care.

As added by P.L.2-1992, SEC.20.

IC 12-26-13

Chapter 13. Leave From Confinement and Discharge

IC 12-26-13-1

Leave of absence; best interest of committed individual

Sec. 1. The superintendent of a facility may grant a committed individual a leave of absence from confinement in the facility for a period designated by the superintendent if the superintendent or an attending physician determines that the leave of absence is in the best interest of the individual.

As added by P.L.2-1992, SEC.20.

IC 12-26-13-2

Discharge notice given to committing court; record entry by court

Sec. 2. Upon the discharge of an individual committed under this article, the superintendent of the facility shall notify the committing court of the date of the discharge. The court shall make an entry on the record indicating the date of discharge.

As added by P.L.2-1992, SEC.20.

IC 12-26-14

Chapter 14. Outpatient Therapy

IC 12-26-14-1

Ordering individual to enter outpatient therapy program; findings authorizing order

Sec. 1. If a hearing has been held under IC 12-26-6 or IC 12-26-7 and the court finds that the individual is:

(1) mentally ill and either dangerous or gravely disabled;

(2) likely to benefit from an outpatient therapy program that is designed to decrease the individual's dangerousness or disability;

(3) not likely to be either dangerous or gravely disabled if the individual complies with the therapy program; and

(4) recommended for an outpatient therapy program by the individual's examining physician;

the court may order the individual to enter a therapy program as an outpatient.

As added by P.L.2-1992, SEC.20. Amended by P.L.62-1993, SEC.9.

IC 12-26-14-2

Representation by program representative that individual may enter program

Sec. 2. Before the court may issue an order under section 1 of this chapter, a representative of an outpatient therapy program approved by the court must represent to the court that the individual may enter that program immediately.

As added by P.L.2-1992, SEC.20.

IC 12-26-14-3

Ordering compliance with program

Sec. 3. The court may require an individual ordered to enter an outpatient therapy program under section 1 of this chapter to do the following:

(1) Follow the therapy program the individual enters.

(2) Attend each medical and psychiatric appointment made for the individual.

(3) Reside at a location determined by the court.

(4) Comply with other conditions determined by the court.

As added by P.L.2-1992, SEC.20.

IC 12-26-14-4

Reasonable belief that individual has failed to comply with program; notice to court; transfer from outpatient program; transfer to sub-acute stabilization program; jail or prison

Sec. 4. (a) If a staff member of a program involved in the treatment, supervision, or care of an individual ordered to enter an outpatient therapy program under section 1 of this chapter has reason to believe that the individual has failed to comply with the requirements of section 3 of this chapter, the staff member shall

immediately notify the court of the failure to comply.

(b) Except as provided in subsection (c), the individual may be transferred from the outpatient therapy program to one (1) of the following:

(1) The inpatient unit of the facility that has the original commitment.

(2) A community based residential program under IC 12-22-2-3.5.

(c) The individual may not be transferred to a community based residential program under IC 12-22-2-3.5 unless in the opinion of the individual's attending physician:

(1) it is not necessary for the individual to receive acute care inpatient treatment; and

(2) the individual is in need of a community based residential program under IC 12-22-2-3.5.

(d) The individual may not be imprisoned or confined in a jail or correctional facility unless the individual has been placed under arrest.

(e) A facility to which an individual is transferred under subsection (b) shall immediately notify the court of the transfer. A transfer to a facility under subsection (b) is subject to review under section 6 of this chapter upon petition by the individual who was transferred.

As added by P.L.2-1992, SEC.20. Amended by P.L.62-1993, SEC.10; P.L.6-1995, SEC.27; P.L.143-2011, SEC.29.

IC 12-26-14-5

Noncompliance notification; reopening commitment proceeding; review of transfer to sub-acute stabilization program

Sec. 5. (a) Upon receiving notification under section 4 of this chapter, the court shall reopen the original committment proceeding and determine whether the:

(1) individual:

(A) has failed to comply with the requirements of section 3 of this chapter;

(B) is mentally ill and either dangerous or gravely disabled; and

(C) should be committed to a facility under this article; or

(2) individual should continue to be maintained on an outpatient commitment, subject to an additional court order that:

(A) requires a law enforcement officer to apprehend and transport the individual to a facility for treatment; and

(B) applies:

(i) after notification to the court by the facility or provider responsible for the individual's commitment; and

(ii) whenever the individual fails to attend a scheduled outpatient appointment or fails to comply with a condition of the outpatient commitment.

(b) If the court receives notice of a transfer under section 4(e) of this chapter, the court may conduct a review to determine the validity

of the transfer.
As added by P.L.2-1992, SEC.20. Amended by P.L.62-1993, SEC.11; P.L.6-1995, SEC.28; P.L.121-1996, SEC.1.

IC 12-26-14-6
Order to enter therapy; review of order and release from program; intervals and conditions

Sec. 6. If an individual is ordered to enter a therapy program under section 1 of this chapter, the individual is entitled to review of the order and release from the program at the same intervals and under the same conditions as an individual committed under:

(1) IC 12-26-6 if the therapy order is issued under that chapter; or

(2) IC 12-26-7 if the therapy order is issued under that chapter.

As added by P.L.2-1992, SEC.20.

IC 12-26-14-7
Committed individuals; placement on outpatient status for remainder of commitment period

Sec. 7. If an individual:

(1) has been committed under IC 12-26-6 or IC 12-26-7;

(2) is likely to benefit from a therapy program designed to decrease the individual's dangerousness or grave disability;

(3) is not likely to be either dangerous or gravely disabled if the individual continues to follow the therapy program; and

(4) is recommended for an outpatient therapy program by the individual's attending or examining physician;

the superintendent of the facility in which the individual is committed or the court at the time of commitment may place the individual on outpatient status for the remainder of the individual's commitment period, subject to the conditions of outpatient therapy programs under section 8 of this chapter.
As added by P.L.2-1992, SEC.20. Amended by P.L.62-1993, SEC.12.

IC 12-26-14-8
Committed individual placed on outpatient status; compliance with program

Sec. 8. An individual placed on outpatient status under section 7 of this chapter may be required to do the following:

(1) Follow the therapy program designed by the facility in which the individual has been placed.

(2) Attend any medical or psychiatric appointments made for the individual with respect to the individual's psychiatric condition.

(3) Reside at a place designated by the superintendent.

As added by P.L.2-1992, SEC.20.

IC 12-26-14-9
Failure to comply with program; return to facility or transfer to sub-acute stabilization program

Sec. 9. If the individual's attending or examining physician

determines that the individual has failed to comply with the requirements under section 8 of this chapter and is likely to be dangerous or gravely disabled, the individual:

(1) may, in accordance with IC 12-24-8, be returned to the facility to which the individual is committed under this article as an inpatient; or

(2) may be transferred to a short term sub-acute stabilization treatment program under this chapter.

As added by P.L.2-1992, SEC.20. Amended by P.L.62-1993, SEC.13.

IC 12-26-14-10

Return to facility; hearing; hearing officer; appeal to committing court

Sec. 10. (a) After an individual has been returned to the facility to which the individual is committed under this article, the director shall conduct a hearing under IC 4-21.5-3 to determine whether:

(1) the individual has failed to comply with the requirements described in section 8 of this chapter;

(2) the individual is in need of inpatient treatment; and

(3) the individual's outpatient status should be revoked.

(b) A hearing required by subsection (a) may be conducted by a hearing officer appointed by the director.

(c) An individual may appeal under IC 4-21.5-5 a determination of the hearing officer by filing a petition with the court that committed the individual under IC 12-26-6 or IC 12-26-7.

As added by P.L.2-1992, SEC.20.

IC 12-26-15

Chapter 15. Review of Commitment

IC 12-26-15-1

Annual review; contents; filing with court; notice; report on individual committed after verdict of not responsible by reason of insanity

Sec. 1. (a) At least annually, and more often if directed by the court, the superintendent of the facility or the attending physician including the superintendent or attending physician of an outpatient therapy program, shall file with the court a review of the individual's care and treatment. The review must contain a statement of the following:

(1) The mental condition of the individual.

(2) Whether the individual is dangerous or gravely disabled.

(3) Whether the individual:

(A) needs to remain in the facility; or

(B) may be cared for under a guardianship.

(b) If the court has entered an order under IC 12-26-12-1, the superintendent or the attending physician shall give notice of the review to the petitioner in the individual's commitment proceeding and other persons that were designated by the court under IC 12-26-12-1 or as provided in this section.

(c) If an individual has been committed under IC 35-36-2-4, the superintendent of the facility or the attending physician shall:

(1) file with the court the report described in subsection (a) every six (6) months, or more often if directed by the court; and

(2) notify the court, the petitioner, and any other person or persons designated by the court under this section:

(A) at least ten (10) days before, or as soon as practicable in case of an emergency, when:

(i) the committed individual is allowed outside the facility or the grounds of the facility not under custodial supervision;

(ii) the committed individual is transferred to another facility and the location of that facility; or

(iii) the committed individual is discharged or the individual’s commitment is otherwise terminated; and

(B) as soon as practicable if the committed individual escapes.

(d) The court may designate as a person or persons to receive the notices provided in this section a person or persons who suffered harm as the result of a crime for which the committed individual was on trial.

(e) The court may designate as a person or persons to receive the notices provided in this section:

(1) an individual or individuals described in subsection (d); or

(2) a designated representative if the person or persons described in subsection (d) are incompetent, deceased, less than eighteen (18) years of age, or otherwise incapable of receiving

or understanding a notice provided for in this section.

(f) A commitment order issued by a court under IC 35-36-2-4 and this article must include the following:

(1) The mailing address, electronic mail address, facsimile number, and telephone number of the following:

(A) The petitioner who filed the petition under IC 35-36-2-4.

(B) Any other person designated by the court.

(2) The notice requirements set forth in this section.

As added by P.L.2-1992, SEC.20. Amended by P.L.40-1994, SEC.61; P.L.77-2004, SEC.2.

IC 12-26-15-2

Receipt by court of review; options; appointment of guardian

Sec. 2. (a) Upon receipt of the report required by section 1 of this chapter, the court shall do one (1) of the following:

(1) Order the individual's continued custody, care, and treatment in the appropriate facility or therapy program.

(2) Terminate the commitment or release the individual from the therapy program.

(3) Conduct a hearing under IC 12-26-12.

(b) The court may, in order to make provision for the individual's continued care, appoint a guardian for the individual.

As added by P.L.2-1992, SEC.20.

IC 12-26-15-3

Requesting hearing for review or dismissal of commitment or order; frequency of commitment reviews; hearing date

Sec. 3. (a) Upon receiving a copy of the court order, the individual or the individual's representative may request a hearing for review or dismissal of the commitment or order concerning the therapy program. The right to review of the regular commitment or therapy order is limited to one (1) review each year, unless the court determines that there is good cause for an additional review.

(b) When a hearing request is received, the court shall set a hearing date and provide at least five (5) days notice to all of the following:

(1) The individual.

(2) The individual's counsel.

(3) Other interested parties.

As added by P.L.2-1992, SEC.20.

IC 12-26-15-4

Rights of committed individual; hearing procedures

Sec. 4. (a) The rights of a committed individual are the same as those provided in IC 12-26-6.

(b) Hearing procedures for a hearing under this chapter are the same as those provided in IC 12-26-6.

As added by P.L.2-1992, SEC.20.

IC 12-26-15-5

Discharge before end of commitment period or court ordered therapy program period; notice to court of discharge or release from therapy program

Sec. 5. (a) Unless the court has entered an order under IC 12-26-12, the individual may be discharged before the end of the commitment period or court ordered therapy program period if either of the following apply:

(1) The superintendent or the attending physician determines that the individual is not mentally ill and either dangerous or gravely disabled.

(2) The superintendent determines, with the written consent of the attending physician, that the individual will enter a facility that provides more appropriate care and treatment immediately following the individual's discharge.

(b) If an individual is discharged or released from a therapy program under this section, the superintendent or the attending physician shall notify the court. The court shall enter an order terminating the commitment or releasing the individual from the therapy program.

As added by P.L.2-1992, SEC.20.

IC 12-26-16

Chapter 16. Guardianships

IC 12-26-16-1

Request by subject individual or other interested party; establishing guardianship instead of making commitment

Sec. 1. At the request of the individual who is the subject of a proceeding under this article or another interested party, the court may establish a guardianship for the individual or the individual's property instead of making or continuing a regular commitment to a facility under IC 12-26-7 or at any other time.

As added by P.L.2-1992, SEC.20.

IC 12-26-16-2

Application of law governing guardianships

Sec. 2. A guardianship established under section 1 of this chapter shall be established under the applicable Indiana law governing guardianships.

As added by P.L.2-1992, SEC.20.

IC 12-27

ARTICLE 27. RIGHTS OF INDIVIDUALS BEING TREATED FOR MENTAL ILLNESS OR DEVELOPMENTAL DISABILITIES

IC 12-27-1

Chapter 1. Application

IC 12-27-1-1

Patients receiving service or training from services providers

Sec. 1. This article applies to a patient receiving mental health services or developmental training in or from a service provider.

As added by P.L.2-1992, SEC.21.

IC 12-27-1-2

Individuals receiving services or training under department of correction

Sec. 2. This article does not apply to an individual receiving mental health services or developmental training under the department of correction.

As added by P.L.2-1992, SEC.21.

IC 12-27-1-3

Private practitioners or other persons; election to be subject to article

Sec. 3. A private practitioner or other person not covered by this article may elect to be subject to this article by notifying the director of the appropriate division in writing of the election.

As added by P.L.2-1992, SEC.21.

IC 12-27-1-4

Rules

Sec. 4. Each division shall adopt rules under IC 4-22-2 to implement this article.

As added by P.L.2-1992, SEC.21.

IC 12-27-2

Chapter 2. Rights of Patients

IC 12-27-2-1

Professional and appropriate services or training; humane care; religious practice; consultation with legal counsel and private practitioners

Sec. 1. Subject to section 2 of this chapter, a patient is entitled to all of the following:

(1) Mental health services or developmental training:

(A) in accordance with standards of professional practice;

(B) appropriate to the patient's needs; and

(C) designed to afford a reasonable opportunity to improve the patient's condition.

(2) Humane care and protection from harm.

(3) The right to practice the patient's religion.

(4) Contact and consultation with legal counsel and private practitioners of the patient's choice at the patient's expense.

As added by P.L.2-1992, SEC.21.

IC 12-27-2-2

Limitations; no known effective treatment or training; services or training not likely to produce significant improvement

Sec. 2. (a) The rights set forth in section 1 of this chapter are subject to the limitation that there may be certain conditions for which there is no known effective treatment or developmental training.

(b) A service provider is not required to afford mental health services or developmental training where treatment would not be likely to produce a significant improvement.

As added by P.L.2-1992, SEC.21.

IC 12-27-2-3

Exercise of constitutional, statutory, and civil rights; rights denied or limited by adjudication or finding of mental incompetency; voidable acts not validated

Sec. 3. (a) A patient is entitled to exercise the patient's constitutional, statutory, and civil rights except for those rights that have been denied or limited by an adjudication or finding of mental incompetency in a guardianship or other civil proceeding.

(b) This section does not validate the otherwise voidable act of an individual who was:

(1) mentally incompetent at the time of the act; and

(2) not judicially declared to be mentally incompetent.

As added by P.L.2-1992, SEC.21.

IC 12-27-3

Chapter 3. Conditional Rights of Patients in Residential Settings

IC 12-27-3-1

Reasonable means of communication defined

Sec. 1. As used in this chapter, "reasonable means of communication" includes the following rights:

(1) To be visited at reasonable times.

(2) To send and receive sealed mail.

(3) To have access to a reasonable amount of letter writing materials and postage.

(4) To place and receive telephone calls at the patient's own expense.

As added by P.L.2-1992, SEC.21.

IC 12-27-3-2

Rights additional to those recognized in IC 12-27-2

Sec. 2. The rights described in this chapter are in addition to the rights recognized in IC 12-27-2.

As added by P.L.2-1992, SEC.21.

IC 12-27-3-3

Conditional rights

Sec. 3. Subject to section 4 of this chapter, a patient receiving services or training in a residential setting is conditionally entitled to do all of the following:

(1) Wear the individual's own clothes.

(2) Keep and use personal possessions.

(3) Keep and spend a reasonable amount of the individual's own money.

(4) Have access to individual storage space for private use.

(5) Maintain reasonable means of communication with persons outside the facility.

As added by P.L.2-1992, SEC.21.

IC 12-27-3-4

Denial or limitation of rights

Sec. 4. The conditional rights recognized in this chapter may be denied or limited as follows:

(1) In the circumstances and according to the procedures established by rules of the appropriate division.

(2) Because of inconsistency with the design of a treatment or habilitation program if the program design has been approved by the division.

(3) On an individual basis, only for good cause as set forth in the individual treatment record and approved by the person primarily responsible for the patient's care and treatment.

As added by P.L.2-1992, SEC.21.

IC 12-27-3-5

Notice of denial or limitation of rights

Sec. 5. The service provider shall give notice of denial or limitation of rights under section 4 of this chapter to the following:

(1) The patient.

(2) The guardian or appointed advocate of the patient.

As added by P.L.2-1992, SEC.21.

IC 12-27-4

Chapter 4. Seclusion and Restraint of Patients

IC 12-27-4-1

Cases in which seclusion or restraint may be used

Sec. 1. A service provider may use seclusion or restraint of a patient only in the following cases:

(1) When necessary to prevent danger of abuse or injury to the patient or others.

(2) As a measure of therapeutic treatment.

As added by P.L.2-1992, SEC.21.

IC 12-27-4-2

Recording instances of and reasons for use of seclusion or restraint

Sec. 2. A service provider shall record all instances of restraint or seclusion and detailed reasons for the restraint or seclusion in the patient's habilitation or treatment record.

As added by P.L.2-1992, SEC.21.

IC 12-27-4-3

Observation of restrained or secluded patient; recording

Sec. 3. A service provider shall do the following:

(1) Frequently observe a patient who is restrained or secluded.

(2) Enter written notification of the observation in the patient's treatment or habilitation record.

As added by P.L.2-1992, SEC.21.

IC 12-27-5

Chapter 5. Refusal of Treatment

IC 12-27-5-1

Voluntary patients; rights to refuse treatment

Sec. 1. An adult voluntary patient who is not adjudicated mentally incompetent may refuse to submit to treatment or a habilitation program.

As added by P.L.2-1992, SEC.21.

IC 12-27-5-2

Involuntary patients; petitioning committing court or hearing officer

Sec. 2. (a) An involuntary patient who wants to refuse to submit to treatment or a habilitation program may petition the committing court or hearing officer for consideration of the treatment or program.

(b) In the absence of a petition made under subsection (a), the service provider may proceed with the proposed treatment or habilitation program.

As added by P.L.2-1992, SEC.21.

IC 12-27-6
Chapter 6. Information Concerning Rights of Patients

IC 12-27-6-1
Patient access to information respecting patient rights

Sec. 1. The administrative head of a facility subject to this article shall ensure that each patient in the service provider's care has access to the information contained in this article respecting the patient's rights.

As added by P.L.2-1992, SEC.21.

IC 12-27-6-2
Information required to be given patients

Sec. 2. A service provider shall inform all patients of the following:

(1) The nature of the treatment or habilitation program proposed.

(2) The known effects of receiving and of not receiving the treatment or habilitation.

(3) Alternative treatments or habilitation programs, if any.

As added by P.L.2-1992, SEC.21.

IC 12-27-6-3
Adult voluntary patients; right to refuse treatment or habilitation; involuntary patients; right to petition for consideration

Sec. 3. (a) A service provider shall inform all adult voluntary patients who are not adjudicated mentally incompetent of the right to refuse to submit to treatment or a habilitation program.

(b) A service provider shall inform all involuntary patients, verbally and in writing, of the right to petition the committing court or hearing officer for consideration of the treatment or program.

As added by P.L.2-1992, SEC.21. Amended by P.L.121-1996, SEC.2.

IC 12-27-7

Chapter 7. Waiver of Rights

IC 12-27-7-1

Voluntary and knowing waiver

Sec. 1. A patient may waive any of the rights enumerated in this article if the waiver is given voluntarily and knowingly.

As added by P.L.2-1992, SEC.21.

IC 12-27-7-2

Admission to program; waiver not condition

Sec. 2. A waiver made under section 1 of this chapter may be withdrawn at any time.

As added by P.L.2-1992, SEC.21.

IC 12-27-7-3

Withdrawal of waiver

Sec. 3. Admission to a treatment or habilitation program may not be conditioned upon the giving of a waiver under section 1 of this chapter.

As added by P.L.2-1992, SEC.21.

IC 12-27-8

Chapter 8. Remedies

IC 12-27-8-1

Remedy for violations

Sec. 1. A violation of rights recognized by this article may be remedied under this chapter.

As added by P.L.2-1992, SEC.21.

IC 12-27-8-2

Action; court having jurisdiction; money damages for willful or wanton violations

Sec. 2. (a) An individual whose rights were violated or a person authorized by statute to act on the individual's behalf may bring an action.

(b) An action under this section shall be brought in a court that has jurisdiction.

(c) In an action under this section, money damages may be awarded only for willful or wanton violation of the rights recognized by this article.

As added by P.L.2-1992, SEC.21.

IC 12-27-8-3

Administrative remedies

Sec. 3. A violation of rights recognized by this article may be remedied by an appropriate administrative action, including the following:

(1) Disciplinary action against an employee.

(2) Withdrawal of certification, license, or funding of a service provider.

As added by P.L.2-1992, SEC.21.

IC 12-27-9

Chapter 9. Mental Health Ombudsman Program

IC 12-27-9-1

Repealed

(Repealed by P.L.100-1998, SEC.1.)

IC 12-27-9-2

Confidentiality of information

Sec. 2. Except as provided under section 6 of this chapter, all information and records of the ombudsman under this chapter are confidential and may not become public records or be subject to a subpoena or discovery proceedings.

As added by P.L.40-1994, SEC.62.

IC 12-27-9-3

Contract with nonprofit corporation for operation of program

Sec. 3. Within the limits of appropriated funds, the division of mental health and addiction shall contract in writing with a nonprofit corporation for the operation of the mental health ombudsman program. The nonprofit corporation must:

(1) be qualified to receive tax deductible contributions under Section 170 of the Internal Revenue Code;

(2) have offices statewide; and

(3) have experience in mental health advocacy.

As added by P.L.40-1994, SEC.62. Amended by P.L.215-2001, SEC.75.

IC 12-27-9-4

Duties of program; records and reports

Sec. 4. (a) The mental health ombudsman program operated under this chapter must do the following:

(1) Have at least one (1) full-time person to operate the program.

(2) Recruit and train volunteers to help carry out the duties of the program under this chapter.

(3) Mediate or advocate on behalf of mental health patients.

(4) At the request of a mental health patient, or upon receiving a complaint or other information affording reasonable grounds to believe that the rights of a mental health patient who is not capable of requesting assistance have been adversely affected, gather information about, analyze, and review on behalf of the mental health patient, the actions of an agency, a facility, or a program.

(5) At reasonable times in the course of conducting a review, enter and view premises within the control of an agency, a facility, or a program.

(b) The mental health ombudsman shall maintain records of all activities on behalf of consumers and report all findings to the division on a quarterly basis.

As added by P.L.40-1994, SEC.62.

IC 12-27-9-5
Complaints; recommendations

Sec. 5. (a) The ombudsman may receive a complaint from the division of mental health and addiction's toll free number (IC 12-21-5-1.5) or any source concerning an action by an agency, a facility, or a program. After completing a review, the ombudsman shall inform the complainant and the agency, facility, or program that the review has been completed.

(b) If, after:

(1) reviewing a complaint;

(2) considering the response of an agency, a facility, or a program; and

(3) considering any other pertinent material;

the mental health ombudsman determines that the complaint has merit, the ombudsman may make recommendations to that agency, facility, or program.

(c) At the ombudsman's request, the agency, facility, or program shall, within a reasonable time, inform the ombudsman about the action taken on the ombudsman's recommendation under subsection (b) or the reasons for not complying with the ombudsman's recommendation.

As added by P.L.40-1994, SEC.62. Amended by P.L.215-2001, SEC.76.

IC 12-27-9-6
Referral of matters; statistics

Sec. 6. (a) If the ombudsman believes that the agency, facility, or program has failed to comply with the ombudsman's recommendations, the ombudsman shall refer the matter to the division of mental health and addiction or the Indiana protection and advocacy services commission as appropriate.

(b) The ombudsman shall compile annual statistics on each agency, facility, or program on which it reviews a complaint or conducts an investigation and determines that the complaint has merit or the investigation reveals a problem. The statistics must specify the types of complaints or problems and each agency, facility, or program that has failed to comply with the ombudsman's recommendations. The statistics shall be reported to the director of the division of mental health and addiction.

As added by P.L.40-1994, SEC.62. Amended by P.L.215-2001, SEC.77.

IC 12-28

ARTICLE 28. MISCELLANEOUS PROVISIONS CONCERNING MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

IC 12-28-1

Chapter 1. Indiana Protection and Advocacy Service Commission

IC 12-28-1-1

Policy; purpose; liberal construction

Sec. 1. (a) It is the policy of the state that every individual with a developmental disability, individual with a mental illness, and individual seeking or receiving vocational rehabilitation services has the same right to legal and other professional and lay representational services to promote, protect, and advocate the individual's interests as any other individual.

(b) It is the intent of this chapter to secure to the state, the state's local units of government, and Indiana citizens maximum benefits under the Developmentally Disabled Assistance and Bill of Rights Act (P.L.94-103), and to this end this chapter should be liberally construed.

As added by P.L.2-1992, SEC.22. Amended by P.L.99-2007, SEC.131.

IC 12-28-1-2

Advocacy defined

Sec. 2. As used in this chapter, "advocacy" means speaking for, pleading for, supporting, advising, espousing the rights of, or interceding on behalf of individuals with developmental disabilities, individuals with a mental illness, or individuals seeking or receiving vocational rehabilitation services before public or private agencies, organizations, institutions, or individuals serving individuals with a developmental disability or individuals with a mental illness or providing vocational rehabilitation services.

As added by P.L.2-1992, SEC.22. Amended by P.L.99-2007, SEC.132.

IC 12-28-1-3

Commission defined

Sec. 3. As used in this chapter, "commission" refers to the Indiana protection and advocacy services commission established by this chapter.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-4

Services defined

Sec. 4. As used in this chapter, "services" refers to Indiana protection and advocacy services.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-5
Vocational rehabilitation services defined

Sec. 5. As used in this chapter, "vocational rehabilitation services" refers to services available under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

As added by P.L.2-1992, SEC.22.

IC 12-28-1-6
Establishment of commission; membership; eligibility; advisory members

Sec. 6. (a) The Indiana protection and advocacy services commission is established. The commission is composed of thirteen (13) members who represent or who are knowledgeable about the needs of individuals served by the commission, including mental retardation, cerebral palsy, epilepsy, autism, and mental illness to be appointed as follows:

(1) Four (4) members to be appointed by the governor.

(2) Nine (9) members to be appointed by a majority vote of commission members.

(b) An official or employee of a branch of state government that delivers services to individuals with a developmental disability, with a mental illness, or seeking or receiving vocational rehabilitation services is not eligible for membership on the commission.

(c) One (1) member of the senate appointed by the president pro tempore of the senate and one (1) member of the house of representatives appointed by the speaker of the house of representatives serve in an advisory nonvoting capacity to the commission.

As added by P.L.2-1992, SEC.22. Amended by P.L.140-1993, SEC.3; P.L.99-2007, SEC.133.

IC 12-28-1-7
Term of office; consecutive terms

Sec. 7. (a) The term of office of a member of the commission is three (3) years.

(b) A member may not serve more than five (5) consecutive terms.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1998, SEC.1; P.L.46-2003, SEC.1.

IC 12-28-1-8
Vacancies

Sec. 8. A vacancy on the commission must be filled by appointment not later than sixty (60) days after the vacancy occurs. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of the term.

As added by P.L.2-1992, SEC.22. Amended by P.L.140-1993, SEC.4.

IC 12-28-1-9
Per diem; travel expenses

Sec. 9. The commission members are entitled to per diem and travel expenses for attending the meetings of the commission as provided for state employees under IC 4-10-11-2.1.
As added by P.L.2-1992, SEC.22.

IC 12-28-1-10
Executive director

Sec. 10. The commission shall establish Indiana protection and advocacy services and appoint an individual to be executive director of the services. The executive director serves at the pleasure of the commission and shall devote the director's time exclusively to the performance of the duties of the office.
As added by P.L.2-1992, SEC.22.

IC 12-28-1-11
Purpose of commission

Sec. 11. The primary purpose of the commission is to assure adequate legal and advocacy services for the:

(1) promotion;
(2) protection; and
(3) advocacy;

of the rights and interests of individuals with a developmental disability, individuals with a mental illness, and individuals who are seeking or receiving vocational rehabilitation services throughout Indiana.
As added by P.L.2-1992, SEC.22. Amended by P.L.99-2007, SEC.134.

IC 12-28-1-12
Powers, duties, and functions of commission

Sec. 12. Notwithstanding IC 4-6-2, the commission has the following powers, duties, and functions:

(1) Establish and maintain all necessary offices.
(2) Provide legal and other advocacy services throughout Indiana to individuals or organizations on matters related to the protection of the legal and human rights of individuals with a developmental disability, individuals with a mental illness, and individuals who are seeking or receiving vocational rehabilitation services.
(3) Enter into contractual relationships and sue and be sued in the name of the services.
(4) Apply for, solicit, and accept contributions or grants of money, property, or services made by gift, devise, bequest, grant, or other means from any source that the commission considers best to assist the services in performing its purpose.
(5) Provide information and referral services.
(6) Adopt rules under IC 4-22-2 to do the following:
    (A) Establish and operate local protection and advocacy service units.
    (B) Operate the service.

(C) Perform the commission's duties.

(7) Ensure full participation in the electoral process in individuals with disabilities, including registering to vote, casting a vote, and accessing polling places, in accordance with 42 U.S.C. 15461 through 15462.

As added by P.L.2-1992, SEC.22. Amended by P.L.209-2003, SEC.201; P.L.99-2007, SEC.135; P.L.100-2012, SEC.34.

IC 12-28-1-13

Eligibility for services

Sec. 13. An individual with mental illness is eligible for services under this chapter if the individual:

(1) has significant mental illness or emotional impairment, as determined by a mental health professional qualified under Indiana statutes and rules; and

(2) is:

(A) an inpatient or a resident in a facility rendering care or treatment even if the location of the inpatient or resident is unknown;

(B) in the process of being admitted to a facility rendering care or treatment, including an individual being transported to the facility;

(C) involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a crime; or

(D) living in a community setting, including the individual's own home.

As added by P.L.2-1992, SEC.22. Amended by P.L.99-2007, SEC.136; P.L.45-2013, SEC.1.

IC 12-28-2

Chapter 2. Interstate Compact on Mental Health

IC 12-28-2-1

Enactment and text of compact

Sec. 1. The Interstate Compact on Mental Health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

Article 1.

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article 2.

As used in this compact, the following terms have the following meanings:

(a) "Sending state" means a party state from which a patient is transported pursuant to this compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" means a party state to which a patient is transported pursuant to this compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" means any hospital or other facility maintained by a party state or political subdivision of a party state for the care and treatment of mental illness or mental deficiency.

(d) "Patient" means any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to this compact.

(e) "After-care" means care, treatment, and services provided a patient, as defined in this compact, on convalescent status or conditional release.

(f) "Mental illness" means mental disease to the extent that a person so afflicted requires care and treatment for that person's own welfare, the welfare of others, or the welfare of the community.

(g) "Mental deficiency" means mental deficiency as defined by appropriate clinical authorities to the extent that a person so

afflicted is incapable of managing the person's self and the person's affairs. However, the term does not include mental illness as defined in this compact.

(h) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(i) "Guardian" includes any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with the power to act for or exercise responsibility for the person or property of a patient.

Article 3.

(a) Whenever a person physically present in any party state is in need of institutionalization by reason of mental illness or mental deficiency, the person shall be eligible for care and treatment in an institution in that state irrespective of the person's residence, settlement, or citizenship qualifications.

(b) Notwithstanding the provisions of paragraph (a) of this article, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of the patient would be facilitated or improved by this transfer. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions of the care and treatment of the patient. The factors referred to in this paragraph shall include:

(1) the patient's full record with due regard for the location of the patient's family;

(2) the character of the illness and probable duration thereof; and

(3) any other factors considered to be appropriate.

(c) No state shall be obliged to receive any patient pursuant to paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient, furnished all available medical and other pertinent records concerning the patient, given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish, and unless the receiving state agrees to accept the patient.

(d) If the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and any further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article 4.

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it is determined that the patient should receive after-care or supervision, such care or supervision may be provided

in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in the receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served, and if the public safety would not be jeopardized, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article 5.

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, the patient shall be detained in the state where found pending disposition in accordance with law.

Article 6.

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article 7.

(a) No person shall be deemed a patient of more than one (1) institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two (2) or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) Nothing in this compact may be construed to alter or affect any internal relationships among the departments, agencies, and officers

of and in the government of a party state, or between a party state and its subdivisions as to the payment of costs or responsibilities for the costs.

(d) Nothing in this compact may be construed to prevent any party state or subdivision of a party state from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision may be responsible pursuant to this compact.

(e) Nothing in this compact may be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care, or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which those agreements may be made.

Article 8.

Nothing in this compact may be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on the guardian's own behalf or in respect of any patient for whom a guardian may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances. However, in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by the court or continue the guardian's power and responsibility, whichever the court determines is advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state instead of making a supplemental or substitute appointment.

Article 9.

(a) No provision of this compact except Article 5 shall apply to any person institutionalized:

(1) while under sentence in a penal or correctional institution;

(2) while subject to trial on a criminal charge; or

(3) whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, the person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail, or lock-up, but the patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

Article 10.

(a) Each party state shall appoint a compact administrator who, on behalf of the state, shall act as general coordinator of activities under the compact in that state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by that state either in the capacity of sending or receiving state. The compact administrator or the administrator's duly designated representative shall be the official with whom other party states shall deal in any manner relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Article 11.

(a) The duly constituted administrative authorities of any two (2) or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency.

(b) No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article 12.

This compact shall enter into full force and effect as to any state when enacted by the state into law and the state shall thereafter be a party to the compact with any and all states legally joining in the compact.

Article 13.

(a) A state party to this compact may withdraw from the compact by enacting a statute repealing the compact. Such withdrawal shall take effect one (1) year after notice of the withdrawal has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to that state or sent out of that state pursuant to this compact.

(b) Withdrawal from any agreement permitted by Article 7(b) as to costs or from any supplementary agreement made pursuant to Article 11 shall be in accordance with the terms of that agreement.

Article 14.

(a) This compact shall be liberally construed so as to effectuate the purposes thereof.

(b) The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby.

(c) If this compact is held contrary to the constitution of any state

party to the compact, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.
As added by P.L.2-1992, SEC.22.

IC 12-28-2-2
Compact administrator; rules; cooperation

Sec. 2. (a) Pursuant to the compact described in section 1 of this chapter, the director or a person authorized to act on behalf of the director shall perform the duties of compact administrator.

(b) The compact administrator may, acting jointly with like officers of other party states, adopt rules to carry out more effectively the terms of the compact.

(c) The compact administrator shall cooperate with all departments, agencies, and officers of the state and subdivisions of the state in facilitating the proper administration of the compact or of any supplementary agreement entered into by Indiana under the compact.
As added by P.L.2-1992, SEC.22.

IC 12-28-2-3
Supplementary agreements

Sec. 3. The compact administrator may enter into supplementary agreements with appropriate officials of other states pursuant to articles 7 and 11 of the compact. If a supplementary agreement requires or contemplates:

(1) the use of an institution or a facility of Indiana; or
(2) the provision of any service by Indiana;

the agreement does not have force or effect until approved by the head of the department or agency under whose jurisdiction the particular institution or facility is operated or whose department or agency will be charged with provision of the service.
As added by P.L.2-1992, SEC.22.

IC 12-28-2-4
Financial obligations; discharge

Sec. 4. The compact administrator may, subject to the approval of the chief state fiscal officer, make or arrange for any payments necessary to discharge any financial obligations imposed upon Indiana by the compact or by a supplementary agreement.
As added by P.L.2-1992, SEC.22.

IC 12-28-3

Chapter 3. Uniform Act for the Extradition of Persons of Unsound Mind

IC 12-28-3-1

Flight and fled defined

Sec. 1. As used in this chapter, "flight" and "fled" mean:

(1) any voluntary or involuntary departure from the jurisdiction of the court where the proceedings mentioned in this chapter may have been instituted and are still pending, with the effect of avoiding, impeding, or delaying the action of the court in which the proceedings may have been instituted or may be pending; or

(2) any departure from the state where the individual demanded then was under the detention by law as an individual of unsound mind and subject to detention.

As added by P.L.2-1992, SEC.22.

IC 12-28-3-2

Repealed

(Repealed by P.L.1-1993, SEC.154.)

IC 12-28-3-3

Executive authority, governor, and chief magistrate defined

Sec. 3. As used in this chapter and as applied to a request to return any individual within the purview of this chapter to or from the District of Columbia, "executive authority", "governor", and "chief magistrate" respectively, includes a justice of the Supreme Court of the District of Columbia and other authority.

As added by P.L.2-1992, SEC.22.

IC 12-28-3-4

Conditions requiring delivery of fugitive

Sec. 4. An individual alleged to be of unsound mind found in Indiana, who has fled from another state in which at the time of the individual's flight the individual:

(1) was under detention by law in a hospital, asylum, or other institution for the insane as an individual of unsound mind;

(2) had been determined by legal proceedings to be of unsound mind, the finding being unreversed and in full force and effect, and the control of the individual having been acquired by a court of competent jurisdiction of the state from which the individual fled; or

(3) was subject to detention in the other state, being then the individual's legal domicile (personal service of process having been made) based on legal proceedings there pending to have the individual declared of unsound mind;

shall, on demand of the executive authority of the state from which the individual fled, be delivered up to be removed to that state.

As added by P.L.2-1992, SEC.22.

IC 12-28-3-5

Procedure on documented demand for fugitive; delivery to agent of demanding state; discharge for delay; costs and expenses; authority to transmit fugitive to other state; authority to demand return to this state

Sec. 5. (a) Whenever the executive authority of any state demands of the executive authority of Indiana any fugitive described in section 4 of this chapter and produces a copy of commitment, decree, or other judicial process and proceedings, certified as authentic by the governor or chief magistrate of that state, with an affidavit made before a proper officer showing the individual to be a fugitive, the executive authority of Indiana shall cause the individual to be apprehended and secured (if found in Indiana) and to cause immediate notice of the apprehension to be given to the executive authority making the demand (or to the agent of that authority appointed to receive the fugitive) and to cause the fugitive to be delivered to the agent when the fugitive appears.

(b) If no agent appears within thirty (30) days from the time of the apprehension, the fugitive may be discharged.

(c) All costs and expenses incurred in the apprehending, securing, maintaining, and transmitting the fugitive to the state making the demand shall be paid by that state.

(d) Any agent so appointed who receives the fugitive into the agent's custody is empowered to transmit the fugitive to the state from which the fugitive has fled.

(e) The executive authority of Indiana is vested with the power, on the application of any person interested, to demand the return to Indiana of any fugitive described within the scope of this chapter.

As added by P.L.2-1992, SEC.22.

IC 12-28-3-6

Statute of limitations

Sec. 6. Any proceedings under this chapter must begin within one (1) year after the flight referred to in this chapter.

As added by P.L.2-1992, SEC.22.

IC 12-28-4

Chapter 4. Residential Facilities for Developmentally Disabled Individuals and Mentally Ill Individuals

IC 12-28-4-1

Application of chapter

Sec. 1. This chapter applies to residential facilities for both individuals with a developmental disability and individuals with a mental illness.

As added by P.L.2-1992, SEC.22. Amended by P.L.99-2007, SEC.137.

IC 12-28-4-2

Planning authority defined

Sec. 2. As used in this chapter, "planning authority" means the agency of county, city, or town government that performs the planning function under IC 36-7 for the land on which a residential facility may be placed.

As added by P.L.2-1992, SEC.22.

IC 12-28-4-3

Staffing; daily living, self-help, and social skills needs of recipients; Medicaid; federal financial participation

Sec. 3. Residential facilities for individuals with a developmental disability must have sufficient qualified training and habilitation support staff so that the residential facility, regardless of organization or design, has appropriately qualified and adequately trained staff (not necessarily qualified mental retardation professionals (as defined in 42 CFR 442.401)) to conduct the activities of daily living, self-help, and social skills that are minimally required based on each recipient's needs and, if appropriate, for federal financial participation under the Medicaid program.

As added by P.L.2-1992, SEC.22. Amended by P.L.99-2007, SEC.138.

IC 12-28-4-4

Staffing limitations for facilities certified for financial participation under Medicaid program

Sec. 4. For residential facilities for individuals with a developmental disability that are certified for financial participation under the Medicaid program, the division of disability and rehabilitative services shall recommend staffing limitations consistent with the program needs of the residents as a part of the office of Medicaid policy and planning's rate setting procedures.

As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.208; P.L.5-1993, SEC.221; P.L.141-2006, SEC.69; P.L.99-2007, SEC.139.

IC 12-28-4-5

Staffing limitations for facilities not certified for financial

participation under Medicaid program

Sec. 5. For residential facilities for individuals with a developmental disability that are not certified for financial participation under the Medicaid program, the division of disability and rehabilitative services shall approve appropriate staffing limitations consistent with the program needs of the residents as a part of the division's rate setting procedures.

As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.209; P.L.5-1993, SEC.222; P.L.141-2006, SEC.70; P.L.99-2007, SEC.140.

IC 12-28-4-6

Staffing limitations; memorandum of agreement

Sec. 6. The office of Medicaid policy and planning and the division of disability and rehabilitative services shall enter into a memorandum of agreement that defines the staffing limitations to be used by the office of Medicaid policy and planning in establishing reimbursement rates. The staffing limitations under section 5 of this chapter may not exceed the staffing limitations defined by the memorandum of agreement between the office of Medicaid policy and planning and the division of disability and rehabilitative services under section 4 of this chapter.

As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.210; P.L.5-1993, SEC.223; P.L.141-2006, SEC.71.

IC 12-28-4-7

Zoning ordinances; residential facilities for individuals with a mental illness

Sec. 7. (a) A zoning ordinance (as defined in IC 36-7-1-22) may not exclude a residential facility for individuals with a mental illness from a residential area solely because the residential facility is a business or because the individuals residing in the residential facility are not related. The residential facility may be required to meet all other zoning requirements, ordinances, and laws.

(b) A zoning ordinance may exclude a residential facility for individuals with a mental illness from a residential area if the residential facility will be located within three thousand (3,000) feet of another residential facility for individuals with a mental illness, as measured between lot lines.

As added by P.L.2-1992, SEC.22. Amended by P.L.99-2007, SEC.141.

IC 12-28-4-8

Zoning ordinances; residential facilities for individuals with a developmental disability

Sec. 8. (a) A residential facility for individuals with a developmental disability:

(1) for not more than eight (8) individuals with a developmental disability; and

(2) established under a program authorized by

IC 12-11-1.1-1(e)(1) or IC 12-11-1.1-1(e)(2);

is a permitted residential use that may not be disallowed by any zoning ordinance (as defined in IC 36-7-1-22) in a zoning district or classification that permits residential use.

(b) A zoning ordinance may only require a residential facility described in subsection (a) to meet the same:

(1) zoning requirements;

(2) developmental standards; and

(3) building codes;

as other residential structures or improvements in the same residential zoning district or classification.

As added by P.L.2-1992, SEC.22. Amended by P.L.272-1999, SEC.48; P.L.99-2007, SEC.142.

IC 12-28-4-9

Covenants created before April 1, 1988, restricting residential facilities for persons with a developmental disability or mental illness

Sec. 9. (a) This section applies to each restriction, reservation, condition, exception, or covenant that is created before April 1, 1988, in any subdivision plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property.

(b) A restriction, a reservation, a condition, an exception, or a covenant in a subdivision plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property that would permit the residential use of property but prohibit the use of that property as a residential facility for individuals with a developmental disability or individuals with a mental illness:

(1) on the ground that the residential facility is a business;

(2) on the ground that the individuals residing in the residential facility are not related; or

(3) for any other reason;

is, to the extent of the prohibition, void as against the public policy of the state.

As added by P.L.2-1992, SEC.22. Amended by P.L.99-2007, SEC.143.

IC 12-28-4-10

Covenants created on or after April 1, 1988, restricting residential facilities for persons with a developmental disability or mental illness

Sec. 10. (a) This section applies to each restriction, reservation, condition, exception, or covenant that is created on or after April 1, 1988, in any subdivision plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property.

(b) A restriction, a reservation, a condition, an exception, or a covenant in a subdivision plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property that would permit the residential use of property but prohibit the use of that property as a residential facility for individuals with a developmental

disability or individuals with a mental illness:

(1) on the ground that the residential facility is a business;

(2) on the ground that the individuals residing in the residential facility are not related; or

(3) for any other reason;

is, to the extent of the prohibition, void as against the public policy of the state.

As added by P.L.2-1992, SEC.22. Amended by P.L.99-2007, SEC.144.

IC 12-28-4-11
Repealed

(Repealed by P.L.6-1995, SEC.39.)

IC 12-28-4-12
Establishment of facilities by division; priority given counties with low ratios of resident facility beds; recruiting private operators

Sec. 12. (a) Subject to the availability of money and consistent with needs assessment, the division of disability and rehabilitative services shall give priority to the establishment of residential facilities, other than the facilities described in section 3 of this chapter, in counties in which the ratio of the number of residential facility beds to county population is in the lowest twenty-five percent (25%) when compared to all other Indiana counties. The division of disability and rehabilitative services may operate residential facilities established under this section.

(b) Before the division of disability and rehabilitative services takes any steps to establish a residential facility under this section, the division shall place at least two (2) legal advertisements in a newspaper having a general circulation in the county. These advertisements must be aimed at recruiting private parties to serve as operators of residential facilities in the county. The advertisements must be published at intervals at least one (1) month apart.

As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.212; P.L.5-1993, SEC.225; P.L.141-2006, SEC.72.

IC 12-28-4-13
Development and lease effort

Sec. 13. (a) The division of disability and rehabilitative services may operate a program known as the development and lease effort. Under the program, the division of disability and rehabilitative services may develop contracts under which the state agrees to lease buildings from private parties for use as residential facilities for individuals with a mental illness or individuals with autism or other individuals with a developmental disability. Notwithstanding any other law, each contract may include provisions that ensure the following:

(1) That the state will lease a building for not more than ten (10) years for use as a residential facility for individuals with autism.

(2) That the state will retain the right to extend the term of the

lease for not more than ten (10) years at the conclusion of the first ten (10) years.

(3) That the state will retain the right to sublease the building to a person who agrees to operate the building as a residential facility for individuals with autism under this chapter.

(b) Leases entered into under this section are subject to the approval of the Indiana department of administration, the attorney general, the governor, and the budget agency, as provided by law.

As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.213; P.L.5-1993, SEC.226; P.L.141-2006, SEC.73; P.L.99-2007, SEC.145.

IC 12-28-4-14

Rules

Sec. 14. The community residential facilities council may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.2-1992, SEC.22.

IC 12-28-5
Chapter 5. Duties of the Division

IC 12-28-5-1
Repealed
(Repealed by P.L.229-2011, SEC.273.)

IC 12-28-5-2
Repealed
(Repealed by P.L.229-2011, SEC.273.)

IC 12-28-5-3
Repealed
(Repealed by P.L.229-2011, SEC.273.)

IC 12-28-5-4
Repealed
(Repealed by P.L.229-2011, SEC.273.)

IC 12-28-5-5
Repealed
(Repealed by P.L.229-2011, SEC.273.)

IC 12-28-5-6
Repealed
(Repealed by P.L.229-2011, SEC.273.)

IC 12-28-5-7
Repealed
(Repealed by P.L.229-2011, SEC.273.)

IC 12-28-5-8
Repealed
(Repealed by P.L.229-2011, SEC.273.)

IC 12-28-5-9
Repealed
(Repealed by P.L.229-2011, SEC.273.)

IC 12-28-5-10
Duties
Sec. 10. The division shall do the following:
(1) Determine the current and projected needs of each geographic area of Indiana for residential services for individuals with a developmental disability and, beginning July 1, 2012, annually report the findings to the division of disability and rehabilitative services advisory council established by IC 12-9-4-2.
(2) Determine how the provision of developmental or vocational services for residents in these geographic areas affects the

availability of developmental or vocational services to individuals with a developmental disability living in their own homes and, beginning July 1, 2012, report the findings to the division of disability and rehabilitative services advisory council established by IC 12-9-4-2.

(3) Develop standards for licensure of supervised group living facilities regarding the following:

(A) A sanitary and safe environment for residents and employees.

(B) Classification of supervised group living facilities.

(C) Any other matters that will ensure that the residents will receive a residential environment.

(4) Develop standards for the approval of entities providing supported living services.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.9; P.L.2-1993, SEC.116; P.L.4-1993, SEC.215; P.L.5-1993, SEC.228; P.L.6-1995, SEC.29; P.L.255-1996, SEC.8; P.L.263-2001, SEC.4; P.L.141-2006, SEC.75; P.L.99-2007, SEC.147; P.L.197-2011, SEC.45; P.L.229-2011, SEC.149; P.L.6-2012, SEC.99.

IC 12-28-5-11

License required for supervised group living facilities

Sec. 11. (a) A supervised group living facility must have a license or provisional license issued under this chapter to operate.

(b) An entity that provides supported living services must be approved by the division under this chapter to operate.

As added by P.L.2-1992, SEC.22. Amended by P.L.6-1995, SEC.30; P.L.263-2001, SEC.5; P.L.229-2011, SEC.150.

IC 12-28-5-12

Supervised group living facility entitled to license; location

Sec. 12. (a) The division may license only those supervised group living facilities that:

(1) meet the standards established under section 10 of this chapter; and

(2) are necessary to provide adequate services to individuals with a developmental disability in that geographic area.

(b) Notwithstanding 431 IAC 1.1-3-7(c) and 431 IAC 1.1-3-7(d), the division shall license one (1) supervised group living facility that is located less than one thousand (1,000) feet from another supervised group living facility or a sheltered workshop under the following conditions:

(1) Both of the supervised group living facilities meet all standards for licensure as provided in section 10(3) of this chapter.

(2) Both of the supervised group living facilities are built on land that is owned by one (1) private entity.

(3) The supervised group living facilities provides job opportunities for residents of the supervised group living facilities, as appropriate.

(c) The division may approve an entity to provide supported living services only if the entity meets the standards established under section 10 of this chapter.

As added by P.L.2-1992, SEC.22. Amended by P.L.6-1995, SEC.31; P.L.255-1996, SEC.9; P.L.6-1998, SEC.1; P.L.263-2001, SEC.6; P.L.170-2002, SEC.83; P.L.99-2007, SEC.148; P.L.229-2011, SEC.151.

IC 12-28-5-13

Revocation of license; hearing

Sec. 13. The division may revoke:

(1) the license of a supervised group living facility; or

(2) the approval of an entity that provides supported living services;

that no longer meets the standards established under section 10 of this chapter after following the procedures prescribed by IC 4-21.5-3. If a hearing is provided for or authorized to be held by the division, the division may designate a person as its agent or representative to conduct a hearing. The agent or representative shall conduct the hearing under IC 4-21.5-3.

As added by P.L.2-1992, SEC.22. Amended by P.L.6-1995, SEC.32; P.L.263-2001, SEC.7; P.L.229-2011, SEC.152.

IC 12-28-5-14

Provisional license

Sec. 14. (a) The division may issue a provisional license to a facility that does not qualify for a license under section 12 of this chapter but that provides satisfactory evidence that the facility will qualify within a period prescribed by the division. The period may not exceed six (6) months.

(b) The division may issue provisional approval to an entity providing supported living services that does not qualify for approval under section 12 of this chapter but that provides satisfactory evidence that the entity will qualify within a period prescribed by the division. The period may not exceed six (6) months.

As added by P.L.2-1992, SEC.22. Amended by P.L.263-2001, SEC.8; P.L.229-2011, SEC.153.

IC 12-28-5-15

Repealed

(Repealed by P.L.229-2011, SEC.273.)

IC 12-28-5-16

Division as primary state agency to plan and coordinate programs of supervised group living facilities and services

Sec. 16. The division of disability and rehabilitative services is the primary state agency responsible for planning, developing, coordinating, and implementing the plan and program of supervised group living facilities and services, including developmental and vocational services, needed for individuals with a developmental

disability residing in those facilities. Other state agencies authorized by law or rule to carry out activities and control money that have a direct bearing upon the provision of supervised group living services shall enter into memoranda of understanding or contracts with the division of disability and rehabilitative services to ensure a coordinated utilization of resources and responsibilities.
As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.217; P.L.5-1993, SEC.230; P.L.6-1995, SEC.34; P.L.141-2006, SEC.77; P.L.99-2007, SEC.149.

IC 12-28-5-17
Inspection of facilities

Sec. 17. The inspection of a facility to determine its compliance with state licensure standards shall be conducted, to the extent feasible, at the same time as the inspection to determine its compliance with federal standards.
As added by P.L.2-1992, SEC.22.

IC 12-28-5-18
Repealed

(Repealed by P.L.111-1997, SEC.9.)

IC 12-28-5-19
Rules to implement chapter

Sec. 19. (a) The division may adopt rules under IC 4-22-2 to implement this chapter.

(b) After June 30, 2011, rules of the former community residential facilities council (repealed) are considered rules of the division.
As added by P.L.23-1992, SEC.12. Amended by P.L.229-2011, SEC.154.

IC 12-29

ARTICLE 29. FINANCING LOCAL PROGRAMS

IC 12-29-1

Chapter 1. Community Centers; General Provisions

IC 12-29-1-0.3

Compliance with P.L.78-2004; certification of budgets, tax rates, tax levies; additional shortfall property tax levies and additional budgeted amounts; treatment of shortfall levies

Sec. 0.3. (a) If the department of local government finance determines that compliance with P.L.78-2004 would cause an unreasonable delay in the certification of budgets, tax rates, and tax levies in a county, the department of local government finance may certify budgets, tax rates, and tax levies for the county under IC 6-1.1-18-12, this chapter, and IC 12-29-2 as if P.L.78-2004 had not been enacted. However, if the department of local government finance takes this action, the affected county and the department of local government finance shall provide for an additional shortfall property tax levy and an additional budgeted amount in 2005 to replace the revenue lost in 2004 to community mental health centers as a result of certifying budgets, tax rates, and tax levies for the county under IC 6-1.1-18-12, this chapter, and IC 12-29-2 as if P.L.78-2004 had not been passed.

(b) The amount of the shortfall levy under subsection (a) shall be treated as an addition to the amount allowed in 2005 under IC 12-29-2, as amended by P.L.78-2004. The ad valorem property tax levy limits imposed by IC 12-29-2, as amended by P.L.78-2004, do not apply to ad valorem property taxes imposed under subsection (a). The shortfall levy imposed under this section may not be considered in computing ad valorem property tax levies under IC 12-29-2, as amended by P.L.78-2004, for property taxes first due and payable after 2005.

As added by P.L.220-2011, SEC.275.

IC 12-29-1-1

County financial assistance; purposes; appropriation; authorization

Sec. 1. (a) The county executive of a county may authorize the furnishing of financial assistance to a community mental retardation and other developmental disabilities center that is located or will be located in the county.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a center.

(2) Operating a center.

(c) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in subsection (b). The appropriation may not exceed the amount that

could be collected from an annual tax levy of not more than three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property within the county.

(d) For purposes of this subsection, "first calendar year" refers to the first calendar year after 2008 in which the county imposes an ad valorem property tax levy for the county general fund to provide financial assistance under this chapter. If a county did not provide financial assistance under this chapter in 2008, the county for a following calendar year:

(1) may propose a financial assistance budget; and

(2) shall refer its proposed financial assistance budget for the first calendar year to the department of local government finance before the tax levy is advertised.

The ad valorem property tax levy to fund the budget for the first calendar year is subject to review and approval under IC 6-1.1-18.5-10.

As added by P.L.2-1992, SEC.23. Amended by P.L.6-1997, SEC.149; P.L.78-2004, SEC.10; P.L.182-2009(ss), SEC.299.

IC 12-29-1-2

Center providing services to at least two counties; appropriation; authorization

Sec. 2. (a) If a community mental retardation and other developmental disabilities center is organized to provide services to at least two (2) counties, the county executive of each county may authorize the furnishing of financial assistance for the purposes described in section 1(b) of this chapter.

(b) Upon the request of the county executive of the county, the county fiscal body of each county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriation of each county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property within the county.

As added by P.L.2-1992, SEC.23. Amended by P.L.6-1997, SEC.150; P.L.78-2004, SEC.11.

IC 12-29-1-3

Furnishing of a share of financial assistance by each county receiving services from a center; conditions; appropriation; authorization

Sec. 3. (a) The county executive of each county whose residents may receive services from a community mental retardation and other developmental disabilities center may authorize the furnishing of a share of financial assistance for the purposes described in section 1(b) of this chapter if the following conditions are met:

(1) The facilities for the center are located in a state adjacent to Indiana.

(2) The center is organized to provide services to Indiana

residents.

(b) Upon the request of the county executive of a county, the county fiscal body of the county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriations of the county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property within the county.

As added by P.L.2-1992, SEC.23. Amended by P.L.6-1997, SEC.151; P.L.78-2004, SEC.12.

IC 12-29-1-4

County bonds; issuance for constructing, equipping, or improving center buildings; payment of proportionate cost of project

Sec. 4. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house a community mental retardation and other developmental disabilities center.

(b) If services are provided to at least two (2) counties:

(1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or

(2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

As added by P.L.2-1992, SEC.23. Amended by P.L.78-2004, SEC.13.

IC 12-29-1-5

County bonds; issuance; application of all Indiana statutes

Sec. 5. All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:

(1) The filing of a petition requesting the issuance of bonds.

(2) The giving of notice of the following:

(A) The filing of the petition requesting the issuance of the bonds.

(B) The determination to issue bonds.

(C) A hearing on the appropriation of the proceeds of the bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance (before January 1, 2009).

(5) Before July 1, 2008, the right of taxpayers and voters to remonstrate against the issuance of bonds.

(6) After June 30, 2008:

(A) the right of taxpayers and voters to remonstrate against

the issuance of bonds, in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds, in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

As added by P.L.2-1992, SEC.23. Amended by P.L.90-2002, SEC.365; P.L.219-2007, SEC.96; P.L.224-2007, SEC.101; P.L.3-2008, SEC.99; P.L.146-2008, SEC.419.

IC 12-29-1-6

Center building the property of county or counties issuing bonds; tax limitations in IC 12-29-1-1 and IC 12-29-1-2 not applicable

Sec. 6. If bonds are issued under this chapter:

(1) the building that is constructed, equipped, or improved with proceeds of the bonds is:

(A) the property of the county issuing the bonds; or

(B) the joint property of the counties involved if the bonds are issued by at least two (2) counties; and

(2) the tax limitations in sections 1 and 2 of this chapter do not apply to the levy of taxes to pay the bonds and the interest on the bonds.

As added by P.L.2-1992, SEC.23.

IC 12-29-1-7

Certification by county auditor of amounts of money to be paid to centers; payments; requisites; certification by county that payment represents expenditures eligible for financial participation

Sec. 7. (a) On the first Monday in October, the county auditor shall certify to:

(1) the division of disability and rehabilitative services, for a community mental retardation and other developmental disabilities center; and

(2) the president of the board of directors of each center;

the amount of money that will be provided to the center under this chapter.

(b) The county payment to the center shall be paid by the county treasurer to the treasurer of each center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the center shall be made on the second Monday in December.

(c) Payments by the county fiscal body are in place of grants from agencies supported within the county solely by county tax money.

As added by P.L.2-1992, SEC.23. Amended by P.L.4-1993, SEC.218; P.L.5-1993, SEC.231; P.L.126-1998, SEC.20; P.L.113-2000, SEC.20; P.L.215-2001, SEC.78; P.L.78-2004, SEC.14; P.L.141-2006, SEC.78.

IC 12-29-2

Chapter 2. Community Mental Health Centers

IC 12-29-2-1

Application of chapter

Sec. 1. This chapter applies only to the funding of a program of services for individuals with a mental illness that is designated as a community mental health center by the division of mental health and addiction in the division's approval of the program.

As added by P.L.2-1992, SEC.23. Amended by P.L.215-2001, SEC.79; P.L.99-2007, SEC.150.

IC 12-29-2-1.2

County financial assistance for community mental health centers; purposes; appropriation

Sec. 1.2. (a) The county executive of a county may authorize the furnishing of financial assistance for the purposes described in subsection (b) to a community mental health center that is located or will be located:

(1) in the county;

(2) anywhere in Indiana, if the community mental health center is organized to provide services to at least two (2) counties, including the county executive's county; or

(3) in an adjacent state, if the center is organized to provide services to Indiana residents, including residents in the county executive's county.

If a community mental health center is organized to serve more than one (1) county, upon request of the county executive, each county fiscal body may appropriate money annually from the county's general fund to provide financial assistance for the community mental health center.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a community mental health center.

(2) Operating a community mental health center.

(c) The appropriation from a county authorized under subsection (a) may not exceed the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by one and five hundred four thousandths (1.504).

(d) For purposes of this subsection, "first calendar year" refers to the first calendar year after 2008 in which the county imposes an ad valorem property tax levy for the county general fund to provide financial assistance under this chapter. If a county did not provide financial assistance under this chapter in 2008, the county, for a following calendar year:

(1) may propose a financial assistance budget; and

(2) shall refer its proposed financial assistance budget for the first calendar year to the department of local government finance before the tax levy is advertised.

The ad valorem property tax levy to fund the budget for the first

calendar year is subject to review and approval under IC 6-1.1-18.5-10.

As added by P.L.78-2004, SEC.15. Amended by P.L.182-2009(ss), SEC.300.

IC 12-29-2-2 Version a

Funding of operation; amount of funding; calculation

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 2. (a) A county shall fund the operation of community mental health centers in the amount determined under subsection (b), unless a lower tax levy amount will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

(1) If the total population of the county is served by one (1) center.

(2) If the total population of the county is served by more than one (1) center.

(3) If the partial population of the county is served by one (1) center.

(4) If the partial population of the county is served by more than one (1) center.

(b) The amount of funding under subsection (a) for taxes first due and payable in a calendar year is the following:

(1) For 2004, the amount is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the amount that was levied within the county to comply with this section from property taxes first due and payable in 2002.

STEP TWO: Multiply the STEP ONE result by the county's assessed value growth quotient for the ensuing year 2003, as determined under IC 6-1.1-18.5-2.

STEP THREE: Multiply the STEP TWO result by the county's assessed value growth quotient for the ensuing year 2004, as determined under IC 6-1.1-18.5-2.

(2) Except as provided in subsection (c), for 2005 and each year thereafter, the result equal to:

(A) the amount that was levied in the county to comply with this section from property taxes first due and payable in the calendar year immediately preceding the ensuing calendar year; multiplied by

(B) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

(c) This subsection applies only to property taxes first due and payable after December 31, 2007. This subsection applies only to a county for which a county adjusted gross income tax rate is first imposed or is increased in a particular year under IC 6-3.5-1.1-24 or a county option income tax rate is first imposed or is increased in a particular year under IC 6-3.5-6-30. Notwithstanding any provision in this section or any other section of this chapter, for a county

subject to this subsection, the county's maximum property tax levy under this section to fund the operation of community mental health centers for the ensuing calendar year is equal to the county's maximum property tax levy to fund the operation of community mental health centers for the current calendar year.

(d) Except as provided in subsection (h), the county shall pay to the division of mental health and addiction the part of the funding determined under subsection (b) that is appropriated solely for funding the operations of a community health center. The funding required under this section for operations of a community health center shall be paid by the county to the division of mental health and addiction. These funds shall be used solely for satisfying the non-federal share of medical assistance payments to community mental health centers serving the county for:

(1) allowable administrative services; and

(2) community mental health rehabilitation services.

All other funding appropriated for the purposes allowed under section 1.2(b)(1) of this chapter shall be paid by the county directly to the community mental health center semiannually at the times that the payments are made under subsection (e).

(e) The county shall appropriate and disburse the funds for operations semiannually not later than December 1 and June 1 in an amount equal to the amount determined under subsection (b) and requested in writing by the division of mental health and addiction. The total funding amount paid to the division of mental health and addiction for a county for each calendar year may not exceed the amount that is calculated in subsection (b) and set forth in writing by the division of mental health and addiction for the county. Funds paid to the division of mental health and addiction by the county shall be submitted by the county in a timely manner after receiving the written request from the division of mental health and addiction, to ensure current year compliance with the community mental health rehabilitation program and any administrative requirements of the program.

(f) The division of mental health and addiction shall ensure that the non-federal share of funding received from a county under this program is applied only for matching federal funds for the designated community mental health centers to the extent a center is eligible to receive county funding under IC 12-21-2-3(5)(D).

(g) The division of mental health and addiction:

(1) shall first apply state funding to a community mental health center's non-federal share of funding under this program; and

(2) may next apply county funding received under this section to any remaining non-federal share of funding for the community mental health center.

The division shall distribute any excess state funds that exceed the community mental health rehabilitation services non-federal share applied to a community mental health center that is entitled to the excess state funds.

(h) The health and hospital corporation of Marion County created

by IC 16-22-8-6 may make payments to the division for the operation of a community mental health center as described in this chapter.
As added by P.L.2-1992, SEC.23. Amended by P.L.17-1995, SEC.12; P.L.6-1997, SEC.152; P.L.90-2002, SEC.366; P.L.170-2002, SEC.84; P.L.1-2004, SEC.54 and P.L.23-2004, SEC.56; P.L.78-2004, SEC.16; P.L.224-2007, SEC.102; P.L.123-2008, SEC.3; P.L.2-2014, SEC.74.

IC 12-29-2-2 Version b
Funding of operation; amount of funding; calculation

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 2. (a) A county shall fund the operation of community mental health centers in the amount determined under subsection (b), unless a lower tax levy amount will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

(1) If the total population of the county is served by one (1) center.

(2) If the total population of the county is served by more than one (1) center.

(3) If the partial population of the county is served by one (1) center.

(4) If the partial population of the county is served by more than one (1) center.

(b) The amount of funding under subsection (a) for taxes first due and payable in a calendar year is the following:

(1) For 2004, the amount is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the amount that was levied within the county to comply with this section from property taxes first due and payable in 2002.

STEP TWO: Multiply the STEP ONE result by the county's assessed value growth quotient for the ensuing year 2003, as determined under IC 6-1.1-18.5-2.

STEP THREE: Multiply the STEP TWO result by the county's assessed value growth quotient for the ensuing year 2004, as determined under IC 6-1.1-18.5-2.

(2) Except as provided in subsection (c), for 2005 and each year thereafter, the result equal to:

(A) the amount that was levied in the county to comply with this section from property taxes first due and payable in the calendar year immediately preceding the ensuing calendar year; multiplied by

(B) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

(c) This subsection applies only to property taxes first due and payable after December 31, 2007. This subsection applies only to a county for which:

(1) a county adjusted gross income tax rate is first imposed or is

increased in a particular year under IC 6-3.5-1.1-24; or

(2) a county option income tax rate is first imposed or is increased in a particular year under IC 6-3.5-6-30;

to provide property tax relief in the county. Notwithstanding any provision in this section or any other section of this chapter, for a county subject to this subsection, the county's maximum property tax levy under this section to fund the operation of community mental health centers for the ensuing calendar year is equal to the county's maximum property tax levy to fund the operation of community mental health centers for the current calendar year.

(d) Except as provided in subsection (h), the county shall pay to the division of mental health and addiction the part of the funding determined under subsection (b) that is appropriated solely for funding the operations of a community health center. The funding required under this section for operations of a community health center shall be paid by the county to the division of mental health and addiction. These funds shall be used solely for satisfying the non-federal share of medical assistance payments to community mental health centers serving the county for:

(1) allowable administrative services; and

(2) community mental health rehabilitation services.

All other funding appropriated for the purposes allowed under section 1.2(b)(1) of this chapter shall be paid by the county directly to the community mental health center semiannually at the times that the payments are made under subsection (e).

(e) The county shall appropriate and disburse the funds for operations semiannually not later than December 1 and June 1 in an amount equal to the amount determined under subsection (b) and requested in writing by the division of mental health and addiction. The total funding amount paid to the division of mental health and addiction for a county for each calendar year may not exceed the amount that is calculated in subsection (b) and set forth in writing by the division of mental health and addiction for the county. Funds paid to the division of mental health and addiction by the county shall be submitted by the county in a timely manner after receiving the written request from the division of mental health and addiction, to ensure current year compliance with the community mental health rehabilitation program and any administrative requirements of the program.

(f) The division of mental health and addiction shall ensure that the non-federal share of funding received from a county under this program is applied only for matching federal funds for the designated community mental health centers to the extent a center is eligible to receive county funding under IC 12-21-2-3(5)(D).

(g) The division of mental health and addiction:

(1) shall first apply state funding to a community mental health center's non-federal share of funding under this program; and

(2) may next apply county funding received under this section to any remaining non-federal share of funding for the community mental health center.

The division shall distribute any excess state funds that exceed the community mental health rehabilitation services non-federal share applied to a community mental health center that is entitled to the excess state funds.

(h) The health and hospital corporation of Marion County created by IC 16-22-8-6 may make payments to the division for the operation of a community mental health center as described in this chapter.

As added by P.L.2-1992, SEC.23. Amended by P.L.17-1995, SEC.12; P.L.6-1997, SEC.152; P.L.90-2002, SEC.366; P.L.170-2002, SEC.84; P.L.1-2004, SEC.54 and P.L.23-2004, SEC.56; P.L.78-2004, SEC.16; P.L.224-2007, SEC.102; P.L.123-2008, SEC.3; P.L.2-2014, SEC.74; P.L.153-2014, SEC.18.

IC 12-29-2-3

Total or partial population of county served by one center; maximum appropriation; determination

Sec. 3. In situations described in section 2(a)(1) or 2(a)(3) of this chapter, the county's maximum appropriation for part of the total operating budget of the center is determined as follows:

STEP ONE: Divide the total county population by the population of the county residing in the primary service area of the community mental health center that is certified by the division of mental health and addiction to serve the county.

STEP TWO: Multiply the amount determined in STEP ONE by the total operating budget of the center after the operating budget of the center is reduced by the following anticipated amounts:

(A) Gifts, except bequests.

(B) Merchandise.

(C) Fees.

(D) Federal grants for direct service, except research and demonstration grants.

As added by P.L.2-1992, SEC.23. Amended by P.L.79-2002, SEC.2.

IC 12-29-2-4

Total or partial population of county served by more than one center; maximum appropriation; allotment to each center; determination

Sec. 4. (a) Except as provided in subsection (b), in situations described in section 2(a)(2) or 2(a)(4) of this chapter, the county's maximum appropriation for part of the total operating budget of the centers is determined in the same manner as in situations described in section 2(a)(1) or 2(a)(3) of this chapter.

(b) The amount derived from the calculation under subsection (a) represents the combined maximum appropriation to all centers serving the particular county. Except for a county containing a consolidated city, the allotment to each center shall be determined in the following manner:

(1) To determine the allotment to each center serving the total population of the county under the situation described in section

2(a)(2) of this chapter, the amount actually appropriated shall be apportioned according to the proportion of the county's population residing in the primary service area of each center, which is certified by the division of mental health and addiction to serve the county, to the total population of the county.

(2) To determine the allotment to each center in the situation described in section 2(a)(4) of this chapter, the amount actually appropriated shall be apportioned according to the proportion of the county's population residing in the primary service area of each center, which is certified by the division of mental health and addiction to serve the county, to the population of the county served by all centers.

As added by P.L.2-1992, SEC.23. Amended by P.L.79-2002, SEC.3.

IC 12-29-2-5
Maximum appropriation determined as county's absolute proportional share of each center's budget; calculations

Sec. 5. (a) The maximum appropriation determined under section 3 or 4 of this chapter represents the county's absolute proportional share of each center's total operating budget.

(b) If the proportional share is less than the amount of property taxes raised under the tax rate required under section 2 of this chapter, the county shall appropriate only the maximum appropriation amount.

(c) If the proportional share is more than the amount of property taxes raised under the tax rate required under section 2 of this chapter, the county:

(1) shall appropriate that amount; and

(2) may appropriate an additional amount up to an amount that would equal the amount of property taxes raised by a tax rate of three and one-third cents ($0.03 1/3).

As added by P.L.2-1992, SEC.23. Amended by P.L.40-1994, SEC.63; P.L.1-2004, SEC.55 and P.L.23-2004, SEC.57.

IC 12-29-2-6
Repealed

(Repealed by P.L.78-2004, SEC.25.)

IC 12-29-2-7
Appropriation

Sec. 7. The county fiscal body shall appropriate and approve the money necessary to carry out this chapter.

As added by P.L.2-1992, SEC.23.

IC 12-29-2-8
Repealed

(Repealed by P.L.37-1998, SEC.1.)

IC 12-29-2-9
Repealed

(Repealed by P.L.37-1998, SEC.1.)

IC 12-29-2-10
Repealed
(Repealed by P.L.37-1998, SEC.1.)

IC 12-29-2-11
Repealed
(Repealed by P.L.37-1998, SEC.1.)

IC 12-29-2-12
Repealed
(Repealed by P.L.37-1998, SEC.1.)

IC 12-29-2-13
Lake County; additional funding of centers; property tax levy increase; requirements

Sec. 13. (a) This section applies to Lake County.

(b) In addition to any other appropriation under this article, the county annually may fund each center serving the county from the county's general fund in an amount not exceeding the following:

(1) For 2004, the product of the amount determined under section 2(b)(1) of this chapter multiplied by seven hundred fifty-two thousandths (0.752).

(2) For 2005 and each year thereafter, the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by seven hundred fifty-two thousandths (0.752).

(c) The receipts from the tax levied under this section shall be used for the leasing, purchasing, constructing, or operating of facilities for community based residential programs (as defined in IC 12-7-2-40) for individuals with a mental illness

(d) Money appropriated under this section must be:

(1) budgeted under IC 6-1.1-17; and

(2) included in the center's budget submitted to the division of mental health and addiction.

(e) Permission for a levy increase in excess of the levy limitations may be ordered under IC 6-1.1-18.5-15 only if the levy increase is approved by the division of mental health and addiction for a community mental health center.

As added by P.L.2-1992, SEC.23. Amended by P.L.40-1994, SEC.64; P.L.6-1995, SEC.36; P.L.6-1997, SEC.153; P.L.215-2001, SEC.80; P.L.78-2004, SEC.17; P.L.99-2007, SEC.151; P.L.143-2011, SEC.30.

IC 12-29-2-14
Operation by uncertified entity; investigations; penalties

Sec. 14. (a) An entity may not:

(1) hold itself out to be a community mental health center; or

(2) use the term "community mental health center";

unless the entity is certified by the division of mental health and

addiction.

(b) The division of mental health and addiction shall investigate a report that an entity is operating as a community mental health center without the approval of the division of mental health and addiction and report the division's findings to the attorney general.

(c) Upon receiving a report made under subsection (b), the attorney general may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of the entity that is the subject of the report if there is reasonable cause to believe that the entity is operating without the required approval of the division of mental health and addiction.

(3) File an action for injunctive relief to stop the entity that is the subject of the report from using the term "community mental health center".

(4) Seek in a civil action a civil penalty of not more than one hundred dollars ($100) a day for each day an entity is operating without the required approval of the division of mental health and addiction.

(d) An opportunity for an informal meeting with the division of mental health and addiction must be provided after the injunctive relief is ordered.

(e) The civil penalties collected under this section must be deposited in the mental health centers fund (IC 6-7-1-32.1).

As added by P.L.111-1997, SEC.6. Amended by P.L.215-2001, SEC.81.

IC 12-29-2-15

County fiscal body member of the board

Sec. 15. (a) A community mental health center that:

(1) is certified by the division of mental health and addiction; and

(2) is not administered by a hospital licensed under IC 16-21-2;

shall include a member of a county fiscal body, or a county fiscal body's designee, on the center's governing board. The member shall be selected by the county fiscal body of the county where the community mental health center maintains its corporate mailing address. The county fiscal body representative must reside in one (1) of the counties in the community mental health center's primary service area.

(b) A community mental health center that:

(1) is certified by the division of mental health and addiction; and

(2) is administered by a hospital licensed under IC 16-21-2;

shall include a member of a county fiscal body, or a county fiscal body's designee, on the center's advisory board. The member shall be selected by the county fiscal body of the county where the community mental health center maintains its corporate mailing address. The county fiscal body representative must reside in one (1)

of the counties in the community mental health center's primary service area.
As added by P.L.79-2002, SEC.4. Amended by P.L.123-2008, SEC.4.

IC 12-29-2-16
Annual report to county fiscal body

Sec. 16. A community mental health center that is certified by the division of mental health and addiction shall provide an annual report to the fiscal body of each county located in the community mental health center's primary service area.
As added by P.L.79-2002, SEC.5. Amended by P.L.123-2008, SEC.5.

IC 12-29-2-17
Issuing county bonds for construction, equipment, or improvement

Sec. 17. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house a community mental health center.

(b) If services are provided to at least two (2) counties:

(1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or

(2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

As added by P.L.78-2004, SEC.18.

IC 12-29-2-18
Application of all general statutes relating to issuance of bonds

Sec. 18. All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:

(1) The filing of a petition requesting the issuance of bonds.

(2) The giving of notice of the following:

(A) The filing of the petition requesting the issuance of the bonds.

(B) The determination to issue bonds.

(C) A hearing on the appropriation of the proceeds of the bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

As added by P.L.78-2004, SEC.19. Amended by P.L.219-2007, SEC.97; P.L.146-2008, SEC.420.

IC 12-29-2-19
County property of building if bond issued; nonapplication of tax limitations

Sec. 19. If bonds are issued under this chapter:

(1) the building that is constructed, equipped, or improved with proceeds of the bonds is:

(A) the property of the county issuing the bonds; or

(B) the joint property of the counties involved if the bonds are issued by at least two (2) counties; and

(2) the tax limitations in this chapter do not apply to the levy of taxes to pay the bonds and the interest on the bonds.

As added by P.L.78-2004, SEC.20.

IC 12-29-2-20
Certification by county auditor; county payments; certification of federal financial participation eligibility

Sec. 20. (a) The county payment for operations of a community mental health center shall be paid by the county treasurer to the division as described in section 2 of this chapter.

(b) To the extent that money is appropriated by a county for purposes allowed under section 1.2(b)(1) of this chapter or is no longer required or requested for programs under section 2 of this chapter, on the first Monday in October, the county auditor shall certify to:

(1) the division of mental health and addiction, for a community mental health center; and

(2) the president of the board of directors of each community mental health center;

the amount of money that will be provided to the community mental health center under this chapter.

(c) The county payment to the community mental health center shall be paid by the county treasurer to the treasurer of each community mental health center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in December.

(d) A county making a payment under this section or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

(e) Payments by the county fiscal body:

(1) must be in the amounts:

(A) determined by sections 2 through 5 of this chapter; and

(B) authorized by sections 1.2 and 13 of this chapter; and

(2) are in place of grants from agencies supported within the county solely by county tax money.

As added by P.L.78-2004, SEC.21. Amended by P.L.123-2008, SEC.6.

IC 12-29-3

Chapter 3. Community Mental Retardation and Other Developmental Disabilities Centers

IC 12-29-3-1
Repealed

(Repealed by P.L.24-1997, SEC.66.)

IC 12-29-3-2
Repealed

(Repealed by P.L.24-1997, SEC.66.)

IC 12-29-3-3
Repealed

(Repealed by P.L.24-1997, SEC.66.)

IC 12-29-3-4
Repealed

(Repealed by P.L.24-1997, SEC.66.)

IC 12-29-3-5
Repealed

(Repealed by P.L.24-1997, SEC.66.)

IC 12-29-3-6
Financial assistance

Sec. 6. (a) As used in this section, "community mental retardation and other developmental disabilities center" means a community center that is:

(1) incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17;

(2) organized for the purpose of providing services for individuals with mental retardation and other individuals with a developmental disability;

(3) approved by the division of disability and rehabilitative services; and

(4) accredited for the services provided by one (1) of the following organizations:

(A) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.

(B) The Council on Quality and Leadership in Supports for People with Disabilities, or its successor.

(C) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.

(D) The National Commission on Quality Assurance, or its successor.

(E) An independent national accreditation organization approved by the secretary.

(b) The county executive of a county may authorize the furnishing of financial assistance to a community mental retardation and other

developmental disabilities center serving the county.

(c) Upon the request of the county executive, the county fiscal body may appropriate annually, from the general fund of the county, money to provide financial assistance in an amount not to exceed the amount that could be collected from the annual tax levy of sixty-seven hundredths of one cent ($0.0067) on each one hundred dollars ($100) of taxable property.

As added by P.L.2-1992, SEC.23. Amended by P.L.4-1993, SEC.224; P.L.5-1993, SEC.237; P.L.24-1997, SEC.60; P.L.6-1997, SEC.154; P.L.2-1998, SEC.43; P.L.64-2002, SEC.4; P.L.141-2006, SEC.79; P.L.99-2007, SEC.152.

IC 12-29-4

Chapter 4. SEA 350-2008 Moratorium

IC 12-29-4-1

"Restricted rules"

Sec. 1. As used in this chapter, "restricted rules" means the rules that the United States Secretary of Health and Human Services is restricted from implementing under the congressional moratorium enacted as part of H.R. 2206 (Iraq War Supplement; May 25, 2007), including the following:

(1) The proposed rule published on January 18, 2007, in volume 72 of the Federal Register (relating to 42 CFR, parts 433, 447, and 457).

(2) The final form of the proposed rule described in subdivision (1) as published in volume 72 of the Federal Register on May 29, 2007.

As added by P.L.123-2008, SEC.7.

IC 12-29-4-2

Application of SEA 350-2008

Sec. 2. Notwithstanding any other law, the additions and amendments to the Indiana Code set forth in SEA 350-2008 are applicable only to the extent that:

(1) the congressional moratorium on the implementation of the restricted rules by the United States Secretary of Health and Human Services is not extended; and

(2) the restricted rules are implemented.

As added by P.L.123-2008, SEC.7.

IC 12-30

ARTICLE 30. COUNTY HOMES AND OTHER COUNTY FACILITIES

IC 12-30-1

Chapter 1. General Provisions Concerning County Homes

IC 12-30-1-1

County board of commissioners; powers and duties

Sec. 1. The board of commissioners of a county may do the following:

(1) Purchase a tract of real property in the name of the county.

(2) Build, establish, and organize a county home for the indigent on the tract of real property.

(3) Employ a humane and responsible individual who resides in the county, upon the terms and under the restrictions the board of commissioners considers most advantageous to the interests of the county, to take charge of the county home as superintendent.

As added by P.L.2-1992, SEC.24.

IC 12-30-1-2

Name of home

Sec. 2. A county home shall be called the "_____ County Home". However, the board of commissioners may adopt another name for the county home.

As added by P.L.2-1992, SEC.24.

IC 12-30-1-3

Joint action of boards of commissioners; powers

Sec. 3. The boards of commissioners of at least two (2) counties may, by joint action, do the following:

(1) Purchase a tract of real property.

(2) Erect, organize, and operate a county home for the indigent of the counties on the real property.

(3) Continue the joint ownership and operation of the county home as the boards of commissioners desire.

(4) Do other things proper and necessary for the relief and comfort of the indigent within the counties forming the joint ownership that an individual county may do under this chapter.

As added by P.L.2-1992, SEC.24.

IC 12-30-1-4

Property tax; assessment; limitation

Sec. 4. To raise the amount necessary for the purchase of real property and the erection and furnishing of the buildings for county homes under this chapter, the board of commissioners of a county may assess a tax on property liable to be assessed for raising a county revenue. The assessment may not increase the rates at which the property is assessed by the laws existing when the tax is assessed by

more than twenty-five percent (25%).
As added by P.L.2-1992, SEC.24.

IC 12-30-1-5
Removal to home of permanent charges to county; employment and support; removal of permanent charges to townships

Sec. 5. (a) A board of commissioners that has established a county home under this chapter:

(1) shall order that all indigent individuals who have become permanent charges on the county be removed to the county home; and

(2) may take the measures for the employment and support of the indigent as the board of commissioners considers advisable.

(b) After a county home is established and an order is issued under subsection (a), the township trustees as administrators of township assistance shall, as indigent individuals become permanent charges to their respective townships, have those individuals removed to the county home.
As added by P.L.2-1992, SEC.24. Amended by P.L.73-2005, SEC.154.

IC 12-30-1-6
Discontinuance; sale or lease; contracts with other counties or institutions to provide care to indigent individuals

Sec. 6. (a) A county home provided by a board of commissioners for the indigent may be discontinued in whole or in part by the board of commissioners, subject to the approval of the county fiscal body. The real and personal property that relates to a discontinued county home and that belongs to the county may be:

(1) sold, leased, or otherwise disposed of, in whole or in part, as real property of the county is sold; or

(2) applied in the manner that is best for the interest of the county and approved by the county fiscal body.

(b) If the county home of a county is discontinued under this section, the board of commissioners of the county may contract with the board of commissioners of the nearest other county that has available accommodations for the maintenance and care of the indigent individuals of the county in the county home of the other county.

(c) A board of commissioners that discontinues a county home under this section may contract with:

(1) a person or corporation that maintains within the county an institution for the care of indigent individuals; or

(2) another agency or private institution located in Indiana that has appropriate facilities and is willing to accept and provide care and maintenance for indigent individuals;

for the maintenance and care of the indigent of the county. The contract may include reasonable terms and conditions that are agreed upon by the board of commissioners and approved by the county fiscal body.

As added by P.L.2-1992, SEC.24.

IC 12-30-2

Chapter 2. Management and Staffing of County Homes

IC 12-30-2-1

Superintendent; term of office; removal

Sec. 1. The board of commissioners of each county shall appoint a superintendent of the county home. The superintendent serves for four (4) years from March 1, unless removed for cause under section 5 of this chapter.

As added by P.L.2-1992, SEC.24.

IC 12-30-2-2

Superintendent; qualifications

Sec. 2. In appointing a superintendent of the county home, the commissioners shall select a reputable citizen of good moral character, kind and humane disposition, and good executive ability, who has had a good education. No consideration other than character, competence, and fitness may be allowed to actuate the commissioners in selecting, continuing, or discharging a superintendent or other officer.

As added by P.L.2-1992, SEC.24.

IC 12-30-2-3

Superintendent; nepotism

Sec. 3. A relative of a member of the board of commissioners may not be appointed superintendent or employed in any capacity. A relative of the superintendent, except the spouse as assistant, may not be employed in any capacity with the home except by the consent of the board of commissioners.

As added by P.L.2-1992, SEC.24.

IC 12-30-2-4

Superintendent; bond

Sec. 4. Each superintendent of a county home established and operated under this chapter may, in the manner prescribed by IC 5-4-1, be required to give bond, conditioned upon the faithful discharge of the superintendent's duty.

As added by P.L.2-1992, SEC.24.

IC 12-30-2-5

Superintendent; removal for cause; record; appeal

Sec. 5. The board of commissioners of a county may remove the superintendent of the county home from office at any time, but only for cause, which must be entered in the record book of the board of commissioners. A superintendent removed from office under this section may appeal the removal action to the circuit court of the county within ten (10) days in the same manner as other appeals are taken from actions of the board of commissioners.

As added by P.L.2-1992, SEC.24.

IC 12-30-2-6
Superintendent; salary; quarters and board

Sec. 6. Each superintendent appointed under this chapter is entitled to an annual salary, in addition to quarters and board for the superintendent and family in the county home, in an amount fixed by the board of commissioners.

As added by P.L.2-1992, SEC.24.

IC 12-30-2-7
Management rules; employees; number and compensation

Sec. 7. The board of commissioners of each county shall prescribe rules necessary for the management of the county home. With the advice and assistance of the superintendent of the county home, the board of commissioners shall regulate the number and fix the compensation of the assistants, nurses, attendants, farmers, seamstresses, laborers, and other employees needed for the care and control of the home.

As added by P.L.2-1992, SEC.24.

IC 12-30-2-8
Inspections; report

Sec. 8. (a) The board of commissioners shall, as a board, visit and inspect the county home at least one (1) time in every three (3) months and enter a report of the board of commissioners' inspection, stating needs and conditions of the institution in the records of the board of commissioners. The report shall be signed by each member of the board of commissioners.

(b) The members of a board of commissioners that has established a county home under this chapter shall, in person, annually inspect the county home with regard to the fitness of the county home in all respects for the object for which the county home was established.

As added by P.L.2-1992, SEC.24.

IC 12-30-2-9
Employees; appointment; removal; qualifications

Sec. 9. (a) The superintendent of a county home shall appoint the assistants, nurses, farmers, laborers, and other employees needed for the work of the home.

(b) The superintendent may at any time remove and dismiss an officer or employee appointed by the superintendent. The superintendent shall report the removal in writing to the board of commissioners at the next regular meeting.

(c) The superintendent of a county home shall promptly remove an officer or employee who is guilty of drunkenness, profane or abusive language in the presence of the residents, cruelty to the residents, lewdness, or any other offense against Indiana law or against public decency.

(d) The superintendent may not consider political, family, or any other improper influence in appointing or dismissing a subordinate officer or an employee. Considerations of character, merit, and

competence are the only reasons for appointment or dismissal.
As added by P.L.2-1992, SEC.24.

IC 12-30-2-10
Management of home; best interests of county; labor by residents; excuse from labor; dismissal for refusing labor

Sec. 10. (a) The superintendent of the county home shall manage the county home and its farm to the best interests of the county.

(b) The superintendent shall maintain order and discipline and shall assign a reasonable amount of labor to every resident who is able to perform labor. A resident may not be excused from labor except by the superintendent or by the county physician for cause. The excuse of a resident by the physician shall be for a definite time, except in the case of:

(1) residents at least seventy (70) years of age; or
(2) residents suffering from a physical or mental disability that makes the residents unfit for labor;

to whom a permanent excuse may be given by the physician.

(c) A resident who refuses to perform the task assigned by the superintendent may be dismissed from the county home by the superintendent and can only be readmitted within six (6) weeks after dismissal:

(1) with the consent of the superintendent; or
(2) upon an order that is issued by the township trustee as the administrator of township assistance and endorsed by the chairman of the board of commissioners.

As added by P.L.2-1992, SEC.24. Amended by P.L.73-2005, SEC.155.

IC 12-30-2-11
Rules prescribed by the board of commissioners; suggestions made by division; reports

Sec. 11. The superintendent of a county home shall carefully observe the rules prescribed by the board of commissioners and shall be guided by suggestions that are made by the division of family resources and the county office. The superintendent shall make reports to the board of commissioners when the board of commissioners orders and shall make reports to the division of family resources when directed by the division.
As added by P.L.2-1992, SEC.24. Amended by P.L.4-1993, SEC.225; P.L.5-1993, SEC.238; P.L.145-2006, SEC.127.

IC 12-30-2-12
Biannual report to board of commissioners; contents

Sec. 12. The superintendent shall make to the board of commissioners a detailed biannual report in writing of the following:

(1) The time and manner of the admission of each indigent individual.
(2) The health and fitness for labor of each resident.
(3) The value of the labor contributed by the residents of the

county home.

(4) The expense incurred in the operation of the county home.

As added by P.L.2-1992, SEC.24.

IC 12-30-2-13

Excess produce; sales; proceeds; deposits; reports

Sec. 13. (a) If there is produce of the county farm that is not needed for the subsistence of the residents, the superintendent shall report that fact to the board of commissioners. The board of commissioners may order the superintendent to sell the surplus produce in the manner and at the time as to produce the best return of money to the county.

(b) The superintendent shall, after making a sale of surplus produce under this section, collect the money and deposit the money with the county treasurer, who shall give the superintendent a receipt for the amount. The superintendent shall immediately thereafter report the transaction to the county auditor, file with the auditor the treasurer's receipt for the money, and take a quietus from the auditor for the money.

(c) All transactions regarding the sale of surplus products from the county farm shall be reported by the superintendent to the board of commissioners in an open meeting. The following information about the transactions shall be entered upon the board of commissioners' record:

(1) The names of the purchasers.

(2) A description of the articles sold.

(3) The quantity of articles sold.

(4) The date of sale.

(5) The price received.

As added by P.L.2-1992, SEC.24.

IC 12-30-2-14

Payment of officers and employees; materials and supplies; specific appropriations; void agreements

Sec. 14. (a) The authority of a county fiscal body under this chapter to pay officers and employees of county homes and to pay for materials and supplies for county homes is strictly limited to the extent of specific appropriations of money made in advance by the county fiscal body upon estimates furnished.

(b) An obligation or a liability may not be incurred by an officer on behalf of the county unless the obligation or liability is within the appropriation specifically made for the purpose.

(c) An undertaking or agreement contrary to this section is void, and no action may be maintained against the county based upon the undertaking or agreement.

As added by P.L.2-1992, SEC.24.

IC 12-30-2-15

Itemized statements of payments for medical services of county home residents

Sec. 15. (a) Beginning on July 1, 2004, before the last day of each month, the office of the secretary of family and social services, or the office's designee, shall submit to a county home an itemized statement of a payment for the medical services for a resident of the county home during the previous calendar month, if a resident has given written consent allowing the office to disclose the resident's payment for medical services information to the county home.

(b) The office of the secretary of family and social services, or the office's designee, shall include the following information in the itemized statement:

(1) The patient's name.

(2) The service code for the service provider.

(3) The amount requested by the provider.

(4) The amount paid by the office.

(c) Before July 1, 2004, the office of the secretary of family and social services, or the office's designee, shall maintain a county home's itemized statements so as to allow a county home access to the county home's statements through a secure connection over the Internet.

As added by P.L.246-2003, SEC.1.

IC 12-30-3

Chapter 3. County Homes in Certain Counties

IC 12-30-3-1

Application of chapter

Sec. 1. This chapter applies to a county having a population of more than two hundred thirty-five thousand (235,000).

As added by P.L.2-1992, SEC.24.

IC 12-30-3-2

Establishment of homes

Sec. 2. (a) The board of commissioners may establish, construct, purchase, lease, convert, or accept and maintain a county home for the support and care of individuals within at least one (1) of the following categories:

(1) The aged.
(2) The blind.
(3) The destitute.
(4) The homeless.
(5) The infirm or chronically ill.
(6) Individuals who need nursing or convalescent care, but not hospitalization, within the available facilities of the county home.

(b) The board of commissioners may use or convert:

(1) the county infirmary;
(2) the county home;
(3) the county farm; or
(4) any other facilities belonging to or received by the county by donation, gift, devise, purchase, lease, or otherwise;

for the purposes set forth in subsection (a).

As added by P.L.2-1992, SEC.24.

IC 12-30-3-3

County home board; membership; qualifications; term of office; vacancies

Sec. 3. (a) A county home board is created in each county that maintains a county home under this chapter.

(b) The county home board consists of seven (7) members who must be residents of the county. The county home board shall be appointed by the board of commissioners, with consent of the county council. The members shall be appointed without regard to political affiliation, except that not more than four (4) members may belong to the same political party.

(c) Each member shall be appointed on the basis of the member's recognized interests in and demonstrated knowledge of the problems of the county home and the proper care and treatment of the county home's patients and residents.

(d) All appointments are for terms of four (4) years and begin on the January 1 immediately after the expiration of the previous term of appointment. A member serves until the member's successor has

been appointed and qualified.

(e) A vacancy occurring for any cause in the membership of the county home board shall be filled for the unexpired term by the board of commissioners. The board of commissioners shall make appointments promptly as far as feasible so that the full membership of the county home board shall be appointed and maintained.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-4

County home board; members; mileage payments; per diem

Sec. 4. (a) The members of the county home board serve without salary, but are entitled to receive for each mile actually and necessarily traveled:

(1) within the county in going to and from officially called meetings of the county home board; and

(2) within Indiana in going to and from meetings of the county home board officially called by the division of family resources;

an amount for mileage at a rate determined by the county fiscal body.

(b) A member not holding other lucrative elective or appointive office may receive a per diem allowance of not more than twenty-five dollars ($25) for attendance at any regularly called meeting of the county home board. Per diem allowances may not exceed twenty-five dollars ($25) to any one (1) member in a calendar month and may be paid only if the amount has been made available by appropriation.

As added by P.L.2-1992, SEC.24. Amended by P.L.10-1997, SEC.17; P.L.145-2006, SEC.128.

IC 12-30-3-5

County home board; meetings; quorum

Sec. 5. (a) The county home board shall hold one (1) regular meeting each month and the called meetings prescribed by the rules of the county home board. The regular meeting shall be held at the county home unless the county home board decides to hold the meeting elsewhere for some specific reason. The May meeting is the annual meeting.

(b) Four (4) members of the county home board constitute a quorum for the transaction of business. At the annual meeting, the county home board shall elect a president and a vice president for a term of one (1) year. The president and vice president serve until a successor is elected.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-6

County home board; official seal; minute book

Sec. 6. The county home board shall adopt and use an official seal for the authentication of the county home board's orders and records and shall cause the county home board's proceeding to be duly recorded in an official minute book maintained by the secretary of the county home board.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-7

County home superintendent; appointment; qualifications; removal

Sec. 7. (a) The county home board shall, with the advice and approval of the board of commissioners, appoint a county home superintendent.

(b) The county home superintendent shall be appointed solely on the basis of merit and fitness for the position and without regard to the appointee's political affiliation. The county home superintendent must:

(1) be a citizen of the United States;

(2) be of good executive ability;

(3) be qualified as an institutional administrative officer;

(4) be a reputable citizen of good moral character; and

(5) have had the proper experience and training to manage efficiently the county home and to supervise or provide necessary and proper care and treatment for the county home's patients and residents.

(c) The county home superintendent may be removed from office only for cause, on charges of inefficiency or another proper charge, after a hearing before the county home board.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-8

County home superintendent; duties; compensation; mileage payments; oath; bond

Sec. 8. (a) The county home superintendent:

(1) is the executive and administrative officer of the county home;

(2) serves as the secretary of the county home board but is not a voting member of the county home board; and

(3) shall perform all duties and functions of county home superintendent as provided by law under the direction and supervision of the county home board.

(b) A county home superintendent is entitled to compensation as fixed by the county home board within the lawfully established appropriations, which shall be paid monthly in the same manner as the compensation of the county officers as provided by law.

(c) In addition to the compensation referred to in subsection (b), the county home superintendent may receive for each mile actually and necessarily traveled an amount for mileage at a rate determined by the county fiscal body.

(d) Before entering upon the duties of the superintendent's office, the county home superintendent:

(1) shall take the oath of office required by law; and

(2) may, in the manner prescribed by IC 5-4-1, be required to execute a surety bond conditioned on the faithful performance of the superintendent's duties.

As added by P.L.2-1992, SEC.24. Amended by P.L.10-1997, SEC.18.

IC 12-30-3-9

County home board; policies, rules, and regulations for government of home; discharge by county home superintendent of administrative duties

Sec. 9. (a) The county home board shall adopt all policies, rules, and regulations for the government of the county home.

(b) The county home superintendent shall discharge all administrative and executive duties and responsibilities of the county home, subject to the approval of the county home board.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-10

County home board; duties

Sec. 10. The county home board shall do the following:

(1) Fix the salaries of the officers and employees of the county home within the lawfully established appropriations.

(2) Supervise the maintenance, operation, and services of the county home.

(3) Supervise and safeguard the health, safety, welfare, and comfort of the patients and residents of the county home.

(4) Review and approve the annual budget of the county home for submission as provided by law.

(5) Adopt rules and regulations for admissions to the county home as provided by law, subject to the approval of the board of commissioners.

(6) Recommend to the board of commissioners necessary additions, repairs, and improvements to the buildings, grounds, and physical plant of the county home.

(7) Review quarterly and annual estimates and requests for food, supplies, and equipment for the county home.

(8) Plan for the requirements of the county home and interpret those requirements to the board of commissioners and the county council.

(9) Cooperate with the county hospital authorities and other public and private agencies and facilities of the county and state.

(10) Improve and extend the services and facilities of the county home as found necessary or desirable, especially nursing services for the aged, blind, infirm, and chronically ill, and those in need of nursing and convalescent care.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-11

County home board; development plan; cooperation with other agencies

Sec. 11. The county home board shall plan for the effective development of the county home for the public benefit and shall be empowered to cooperate with all agencies of government to accomplish this purpose.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-12

County home board; inspection of facilities

Sec. 12. The county home board shall regularly inspect all facilities of the county home. In the inspections, the board shall examine the following:

(1) The sufficiency and performance of the personnel.

(2) The health, medical care, and nursing care of patients and residents.

(3) Drug handling.

(4) Mechanical restraint and seclusion.

(5) Food service and food sanitation.

(6) Water supply.

(7) Sanitation and sewage disposal.

(8) Physical plant and equipment.

(9) Safety standards.

(10) Community life and occupational therapy for patients and residents.

(11) Handling of mail and assistance warrants of patients and residents.

(12) Admission of patients and residents on a voluntary basis.

(13) Records and reports.

(14) Working and living arrangements for staff personnel.

(15) Other items the inspection of which is provided by law or determined to be necessary or advisable by the county home board.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-13

County home superintendent; assistants; appointment; qualifications; compensation; dismissal

Sec. 13. (a) The county home superintendent shall, with the approval of the county home board, appoint as many assistants as the superintendent and the county home board determine to be necessary to do the following:

(1) Administer the activities and services of the county home.

(2) Provide proper and adequate care for patients and residents.

(3) Perform all other duties required of the county.

(b) Assistants must be appointed under this section solely on the basis of qualification and training for the duties assigned and without regard to political affiliation.

(c) The county home superintendent shall, with the approval of the county home board, fix the compensation of the assistants appointed under this section within the lawfully established appropriations.

(d) Assistants appointed under this section may be dismissed only for cause by the county home superintendent with the approval of the county home board. An assistant dismissed under this subsection has the right to a hearing before the county home board if requested within ten (10) days after the effective date of dismissal.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-14

Admission of patients and residents; recipients of old age assistance and blind assistance

Sec. 14. (a) Admission of all patients and residents to the county home must be on a voluntary basis and without regard to race, religion, color, sex, national origin, or ancestry.

(b) Recipients of old age assistance and blind assistance shall be admitted to the county home on the same basis and for the same charge as other patients and residents in the county home. There may be no discrimination in the care and treatment of patients and residents of the county home because of the source of the money for the support and care of the patients and residents.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-15

Hospitalization or medical care needed by patient or resident

Sec. 15. Whenever a patient or resident in the county home requires hospitalization, medical nursing, or other care beyond the facilities of the county home, arrangements shall be made promptly for furnishing that necessary care.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-16

Participation in work of farm or home; community life; special privileges; self employment

Sec. 16. (a) Participation by residents or patients in the work of the farm or home, other than care of person and simple duties such as care of bed and room, shall be on a voluntary basis.

(b) Effort shall be made to provide community life and opportunities for such activities, along the line of occupational therapy, under the direction of a physician, as are consistent with the mental and physical well-being of the residents or patients.

(c) Special privileges, duties, or responsibilities may not be extended to one (1) resident or patient unless made available to every resident or patient within the patient's own mental or physical limitations.

(d) Opportunity shall be developed for self employment and personal earnings in connection with hobbies and abilities within reasonable limits for the well-being of residents and patients.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-17

Counties not having consolidated cities; charges for care and maintenance of patients and residents

Sec. 17. (a) This section applies to a county that does not have a consolidated city.

(b) The amount to be charged for the care and maintenance of each patient or resident in the county home shall be fixed as provided by law and may not exceed the maximum amount established by law.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-18

Counties having consolidated cities; schedule of charges for care and maintenance of patients and residents

Sec. 18. (a) This section applies to a county having a consolidated city.

(b) The county home board shall fix a schedule of charges for the care and maintenance of patients or residents and the effective date of the schedule. A schedule of charges established under this section is not effective until after the charges have been approved by resolution of the city-county council. In establishing the schedule of charges, the county home board may fix different rates based on different types or classes of care. If the home is licensed under state or federal laws that authorize or fix different classes of care, those classifications authorized or fixed by law are a sufficient basis for classification in the schedule of charges. The schedule of charges may also provide that separate and additional charges may be charged for special treatments, drugs, medical service, appliances, and other auxiliary services that are not included in the classification of care.

(c) This section is the exclusive basis of determining the charges to be made to patients and residents of a county home and the provisions of any other laws regarding those rates, including laws concerning county institutions, relief of poor persons, township trustees, county offices of the division of family resources, and boards of commissioners, do not apply. However, a rate established under this section must be based on a fair and reasonable estimate of the cost of the care and may not anticipate any profit from rendering the care.

As added by P.L.2-1992, SEC.24. Amended by P.L.4-1993, SEC.226; P.L.5-1993, SEC.239; P.L.145-2006, SEC.129.

IC 12-30-3-19

Money for operation and maintenance of county homes

Sec. 19. Money for the operation and maintenance of the county home, the care and support of patients and residents in the county home, and improvements and activities authorized by this chapter and laws supplementary to this chapter shall be provided, levied, appropriated, made available, and expended as provided by law.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-20

Employment of residents or patients

Sec. 20. Able-bodied residents or ambulatory patients within their physical and mental capacity may be employed on a voluntary basis by the county home superintendent with the approval of the county home board, on the terms for board, maintenance, and compensation that are mutually acceptable. Upon being employed under this section, a resident or patient shall be given the privileges, duties, and status of a county home employee.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-21
County home board; power to sue and be sued

Sec. 21. The county home board, in its legal capacity and under its own name, may prosecute and defend suits. A suit brought against the county home board may be begun in the circuit or superior court or any other court with jurisdiction in the county. A notice or summons concerning a suit against the county home board must be served upon the county home superintendent. In a suit brought by or against the county home board, it is not necessary to name the individual members of the county home board as either plaintiff or defendant. The county home board may sue or be sued under the name of " _____ County Home Board".

As added by P.L.2-1992, SEC.24.

IC 12-30-3-22
County home board; rights and powers

Sec. 22. The board has all other rights and powers and shall perform all other duties that are:

(1) necessary to administer this chapter; and

(2) not inconsistent with this chapter.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-23
Gifts, devises, and bequests; investment; special fund; expenditures

Sec. 23. (a) The county home board may receive and administer any gift, devise, or bequest of personal property, including the income from real property, to or for the benefit of the county home or for the benefit of residents or patients who are admitted to the care or supervision of the county home board. The county home board may invest or reinvest any of the money received under this section in the same kinds of securities in which life insurance companies are authorized by law to invest money.

(b) All money received by the county home board under this section and all money, proceeds, or income realized from real property or other investments:

(1) shall be kept in a special fund;

(2) may not be commingled with any other fund received from taxation; and

(3) may be expended by the county home board in any manner consistent with the purposes of the fund's creation and the intention of the donor, subject to the approval of the court of the county having probate jurisdiction.

As added by P.L.2-1992, SEC.24.

IC 12-30-3-24
Bond and liability insurance premiums

Sec. 24. The premiums on all bonds and liability insurance that an officer or a person is required by this chapter to execute by law or by action of the county home board shall be paid in the same manner as other expenses of the county home are paid out of the appropriation

for fixed charges, unless otherwise expressly provided by law.
As added by P.L.2-1992, SEC.24.

IC 12-30-3-25
Immunity from personal liability

Sec. 25. The:

(1) members of the county home board;
(2) the county home superintendent; and
(3) officers and employees of the county home;

are not personally liable, except to the state or the county, for an official act done or omitted in connection with the performance of duties established under this chapter.
As added by P.L.2-1992, SEC.24.

IC 12-30-3-26
Administration of oaths and affirmations

Sec. 26. An officer or employee of the county home may, upon written authorization by the county home board, administer the oaths and affirmations required to carry out the purposes of this chapter.
As added by P.L.2-1992, SEC.24.

IC 12-30-3-27
Nepotism

Sec. 27. Nepotism may not be permitted in appointments and employment in the county home, so far as prohibited by law.
As added by P.L.2-1992, SEC.24.

IC 12-30-3-28
Purpose of chapter

Sec. 28. The purpose of this chapter is to provide necessary and prompt assistance and care without stigma to the citizens and residents of Indiana who are entitled to avail themselves of this chapter's provisions, especially those having little or no resources and low income persons or the homeless or unattached or those requiring care and support or nursing beyond the capacity of the family home in situations not requiring hospitalization or other medical treatment or care in other state and county institutions. This chapter shall be liberally construed so that its purposes may be accomplished as equitably, economically, and expeditiously as possible.
As added by P.L.2-1992, SEC.24.

IC 12-30-4

Chapter 4. Placement of Indigent in County Homes and Payment of Indigent Expenses

IC 12-30-4-1

Receipt and support of indigents; contracting with other counties or charitable institutions

Sec. 1. Every county that maintains, in addition to any other charitable institution permitted by law, a county home that provides for the care of indigent individuals as provided by law:

(1) shall receive and support in the county home indigent individuals who:

(A) are lawfully settled in the county; and

(B) placed in the county home by the township trustee as the administrator of township assistance, with the consent of the board of commissioners of the county; or

(2) may contract with other counties or with other charitable institutions located in Indiana for the relief and support of indigent individuals maintained as a public charge of the county, and may levy taxes for that purpose.

As added by P.L.2-1992, SEC.24. Amended by P.L.73-2005, SEC.156.

IC 12-30-4-2

Admission of individuals who have become permanent charges on township; temporary placement

Sec. 2. (a) The township trustee as the administrator of township assistance shall periodically provide for the admission to the county home of indigent individuals who have become permanent charges on the township.

(b) Whenever an individual who is determined to be eligible for township assistance and is entitled to temporary relief is in a township in which the individual does not have legal settlement, the township trustee as the administrator of township assistance may place the individual temporarily in the county home.

As added by P.L.2-1992, SEC.24. Amended by P.L.51-1996, SEC.74; P.L.73-2005, SEC.157.

IC 12-30-4-3

Township trustee; investigation of individual; report to county board of commissioners

Sec. 3. The township trustee as the administrator of township assistance shall, when seeking the admission of an individual as a resident of a county home, first investigate the individual and make a report to the board of commissioners of the county. The report must contain the following:

(1) The name of the individual.

(2) The birth place and date of birth of the individual.

(3) The length of time that the individual has been legally settled in the township.

(4) A statement of the health of the individual, which must be certified to by a competent physician.

(5) A statement of the income, property, or property rights of the individual.

(6) A list of the individual's relatives who, in the opinion of the township trustee as the administrator of township assistance, are capable of making contributions for the support of the individual.

As added by P.L.2-1992, SEC.24. Amended by P.L.73-2005, SEC.158.

IC 12-30-4-4

Recommendation by township trustee; consideration and investigation by county board of commissioners; terms and conditions of admission; delegation of investigation

Sec. 4. (a) The board of commissioners of the county shall, upon receipt of a recommendation by the township trustee as the administrator of township assistance, immediately consider the recommendation and make further investigation that the board of commissioners considers best. The board of commissioners of the county shall admit the individual on the terms, conditions, and contract that the board of commissioners considers just and fair by requiring the individual sought to be admitted, or other persons or agencies, to pay the money, within the rate lawfully established under section 8 of this chapter, at the times that the board of commissioners considers proper.

(b) The board of commissioners may delegate the investigation to the superintendent of the county home or to other agencies or persons that the board of commissioners considers best. However, the board of commissioners retains the right of determination, subject only to the right of appeal.

As added by P.L.2-1992, SEC.24. Amended by P.L.73-2005, SEC.159.

IC 12-30-4-5

Denial of admission; appeal to circuit court

Sec. 5. If a board of commissioners finds that the individual sought to be admitted into the county home or other charitable institution should not, for any cause, be admitted, the individual denied admission, or the township trustee as the administrator of township assistance, may appeal from the decision of the board of commissioners of the county to the circuit court of the county by filing a transcript of the record before the board of commissioners with the clerk of the circuit court of the county, who shall immediately notify the circuit court. The court shall, as soon as possible, proceed to hear and determine the matter. The court may order the board of commissioners to accept the individual in the county home or other charitable institution on the terms and conditions, within the lawfully established rate as provided in section 8 of this chapter, as the court orders.

As added by P.L.2-1992, SEC.24. Amended by P.L.73-2005, SEC.160.

IC 12-30-4-6
Temporary admission

Sec. 6. In case of an emergency and pending the decision by the board of commissioners or the circuit court, an individual sought to be admitted shall be admitted temporarily. If the final determination is made that the individual should not be admitted, the trustee of the township of the individual's legal settlement, as the administrator of township assistance, shall immediately remove the individual from the county home or other charitable institution.
As added by P.L.2-1992, SEC.24. Amended by P.L.73-2005, SEC.161.

IC 12-30-4-7
Public assistance recipients; voluntary admission; charge for care and maintenance; modification of welfare payments

Sec. 7. If an individual sought to be admitted to a county home on a voluntary basis upon application to the board of commissioners is a recipient of public assistance from the county or other agencies, the individual may not be deprived of the right to receive welfare or other payments because of the individual's admission to a county home. However, the amount of the welfare payments may be taken into consideration by the board of commissioners in arriving at the amount, within the lawfully established rate as provided in section 8 of this chapter, necessary for the support of the individual sought to be admitted in the county home or other charitable institution. The county office may, in fixing the amount of welfare or other payments for the individual, take into consideration the fact that the individual is placed in the county home or other charitable institution and may modify the amount of the payments as the county office considers proper under Indiana law governing public assistance.
As added by P.L.2-1992, SEC.24. Amended by P.L.4-1993, SEC.227; P.L.5-1993, SEC.240.

IC 12-30-4-8
Charge for care and maintenance of individuals

Sec. 8. The board of commissioners shall, each year at its July meeting, fix an amount to be charged for the care and maintenance of each individual in the county home or other charitable institution. The charge must cover the total amount to be charged for board, room, medical and nursing care, maintenance, clothing, and all other items furnished within the county home. The items shall be made available to all residents and patients on the same basis.
As added by P.L.2-1992, SEC.24.

IC 12-30-4-9
Voluntary residents; ability to pay all or part of costs of care; charges

Sec. 9. In those cases in which facilities are available, the board of commissioners may accept individuals in need of care who are able to pay all or part of the costs of care on a voluntary basis. The board of commissioners of each county maintaining a county home shall periodically determine the reasonable cost of these services and fix charges for each voluntary resident on the basis of the cost of the care and ability of the voluntary resident to pay.
As added by P.L.2-1992, SEC.24.

IC 12-30-4-10
Appropriations; advancement of money to township trustees

Sec. 10. The:

(1) county council shall appropriate; and

(2) the board of commissioners in each county shall advance;

to the township trustees as the administrators of township assistance the money necessary for the relief and burial of the indigent in each township, which shall be accounted for and repaid to the county treasurer as provided in section 11 of this chapter.
As added by P.L.2-1992, SEC.24. Amended by P.L.73-2005, SEC.162.

IC 12-30-4-11
Payments to county; maximum monthly amounts per individual; taxation

Sec. 11. (a) Each township trustee as the administrator of township assistance shall pay to the county the amount fixed for each individual admitted into the county home or other charitable institution from the township, except those otherwise able to pay the cost of their care from their own resources or from other assistance awards. Except as provided in subsection (b), the amount that may be charged to the township may not exceed one hundred dollars ($100) per month per individual.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The amount charged the township per individual may not exceed forty-eight dollars ($48) per month or twelve dollars ($12) per week.

(c) Each township shall levy a tax sufficient to meet those expenses.

(d) Payment and settlement shall be made in July and December of each year for the preceding year.
As added by P.L.2-1992, SEC.24. Amended by P.L.73-2005, SEC.163.

IC 12-30-5

Chapter 5. Reimbursement of Expenses From County Home Resident's Estate

IC 12-30-5-1

Charges against estates

Sec. 1. If an individual who:

(1) is being supported at public expense in a county home; or

(2) has died while a resident of a county home;

is found to have an estate of any kind that is not needed for the support, in whole or in part, of the husband, wife, children, parents, grandparents, grandchildren, brothers, or sisters of the individual, the amount of expense incurred by the county for the treatment and maintenance of the individual shall be charged against the individual's estate, both during the individual's lifetime and after the individual's death.

As added by P.L.2-1992, SEC.24.

IC 12-30-5-2

Collections

Sec. 2. The reimbursement obtained under section 1 of this chapter shall be collected quarterly by the superintendent of the county home in which the individual resides or resided, at a rate of not more than seven dollars ($7) per week. The money received shall be paid quarterly into the county general fund. The superintendent or executive officer may, under the direction of the board of commissioners of the county, bring suit against the estate of an individual described in section 1 of this chapter failing to make payment as required in this chapter. If a judgment is obtained in a suit brought under this section, the judgment constitutes a lien against the part of the estate that is described in the complaint.

As added by P.L.2-1992, SEC.24.

IC 12-30-5-3

Construction of chapter; duties of township trustees and county home superintendents

Sec. 3. This chapter does affect the duties of township trustees or the superintendents of the county homes.

As added by P.L.2-1992, SEC.24.

IC 12-30-6
Repealed

(Repealed by P.L.6-1995, SEC.39.)

IC 12-30-7

Chapter 7. Health Centers in Allen County and St. Joseph County

IC 12-30-7-1

Application of chapter

Sec. 1. (a) This chapter applies to a county that meets the following conditions:

(1) The county has a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(2) The county maintains, owns, or maintains and owns a county home for the support and care of persons who are aged, blind, destitute, homeless, infirm, chronically ill, or in need of nursing or convalescent care, but who do not require hospitalization.

(3) The county maintains, owns, or maintains and owns a hospital for the treatment of patients afflicted with tuberculosis and other chronic diseases that contracts with other counties for the treatment of citizens of the other counties.

(b) This chapter applies to a county that meets the following conditions:

(1) The county has a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(2) The county maintains or owns a county home for the support and care of persons who are aged, blind, destitute, homeless, infirm, chronically ill, or in need of nursing or convalescent care, but who do not require hospitalization.

As added by P.L.2-1992, SEC.24. Amended by P.L.119-2012, SEC.108.

IC 12-30-7-2

Contracting county defined

Sec. 2. As used in this chapter, "contracting county" means a county that contracts with the county having a health center for the care of patients afflicted with tuberculosis or other chronic diseases.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-3

Fund defined

Sec. 3. As used in this chapter, "fund" refers to the county health center fund established by this chapter.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-4

Counties having population of more than 300,000 but less than 400,000; consolidation of property and supplies; health centers; divisions

Sec. 4. (a) A county described in section 1(a) of this chapter shall consolidate all real property, buildings, equipment, supplies,

employees, insurance, and equity of the county home and the hospital and operate both as one (1) entity to be known as the "_____ Health Center".

(b) The health center must include at least the following two (2) divisions:

(1) The health care facility division.

(2) The hospital division.

(c) Other divisions may be added as necessary.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-5

Counties having population of more than 250,000 but less than 270,000; health centers; hospital divisions

Sec. 5. (a) A county described in section 1(b) of this chapter shall name and operate the county's county home as the "_____ Health Center".

(b) Notwithstanding any other provision of this chapter, the health center does not have a hospital division.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-6

Taxation; support of health centers

Sec. 6. The board of commissioners of a county shall, with the approval of the county council, cause to be assessed, levied, and collected the amounts of money the board of commissioners considers necessary for the following:

(1) Suitable lands, buildings, and improvements for the health center.

(2) Maintenance of the health center.

(3) All other necessary expenditures.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-7

Borrowing money and issuing county obligations; support of health centers

Sec. 7. The board of commissioners shall, with the approval of the county fiscal body, borrow money by the issue of county obligations, as the board of commissioners may do for other county purposes, for the following:

(1) The erection, furnishing, refurnishing, equipping, or reequipping of the health center.

(2) The purchase of a site for the health center.

(3) Additions to the site.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-8

Fixing levy and rate of taxation; additional appropriations

Sec. 8. The board of commissioners shall annually recommend to the county fiscal body a tax rate and levy to provide the necessary money for the operation and maintenance of the health center based

upon the estimates of the board of managers of the health center. The county fiscal body shall adopt a budget and fix a levy and rate of taxation that, when added to all estimated health center revenues, is sufficient to provide the amounts appropriated for the health center. The county fiscal body may make additional appropriations from the county general fund to make up deficits in estimated revenue or for emergencies.
As added by P.L.2-1992, SEC.24.

IC 12-30-7-9
Health center board of managers; membership

Sec. 9. (a) The county executive shall appoint a board of managers for the health center. The board of managers shall be composed of eleven (11) county residents appointed on the basis of the residents' recognized interest in and demonstrated knowledge of the problems of the health center and the proper care and treatment of the patients and residents. The board of managers must be composed of any combination of the following:

(1) Physicians holding unlimited licenses to practice medicine in Indiana.
(2) Licensed registered nurses, pharmacists licensed under IC 25-26-13, or licensed dentists.
(3) Individuals appointed from business, industry, and the health professions, or consumer representatives.
(4) Social workers.
(5) Dietitians.
(6) Professional engineers (as defined in IC 25-31-1-2).
(7) Any other resident of the county the board of commissioners considers qualified.

(b) Not more than six (6) members of the board of managers may be members of the same political party.
As added by P.L.2-1992, SEC.24.

IC 12-30-7-10
Health center board of managers; term of office; successors

Sec. 10. (a) All appointments to the board of managers may be for terms of four (4) years. A member of the board of managers may not serve more than two (2) consecutive terms of four (4) years, except that a member of the board of managers for a health center located in a county described in section 1(b) of this chapter may serve consecutive four (4) year terms without limitation.

(b) Each member of the board of managers serves until the member's qualified successor is appointed.
As added by P.L.2-1992, SEC.24. Amended by P.L.24-1997, SEC.61.

IC 12-30-7-11
Health center board of managers; vacancies

Sec. 11. A vacancy occurring for any reason in the membership of the board of managers shall be filled for the unexpired term by an individual appointed by the county executive.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-12
Health center board of managers; meetings; quorum

Sec. 12. (a) The board of managers shall hold one (1) regular meeting each month at the health center or at some other location designated by the board of managers and shall call as many other meetings as may be prescribed by the rules of the board of managers. The May meeting is the annual meeting.

(b) Six (6) members of the board of managers constitute a quorum for the transaction of business.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-13
Health center board of managers; election of president and vice president; term of office; minute book

Sec. 13. At the annual meeting the board of managers shall elect a president and vice president who serve for one (1) year terms. The proceedings of the board of managers shall be recorded in an official minute book maintained by the secretary.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-14
Health center board of managers; mileage payments

Sec. 14. Members of the board of mangers serve without salary, but shall be entitled to the amount for mileage equal to the amount per mile paid to state officers and employees according to the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency. Mileage shall be paid for travel to and from official meetings of the board of managers and for travel incurred in connection with official health center business.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-15
Health center board of managers; center administrator; appointment; qualifications; removal

Sec. 15. (a) The board of managers shall, with the advice and consent of the board of commissioners, select and appoint an administrator for the health center.

(b) The administrator shall be appointed solely on the basis of merit and fitness for the position, without regard to the appointee's political affiliation. The administrator must have the following qualifications:

(1) Be a citizen of the United States.
(2) Possess good executive ability.
(3) Be qualified as an institutional administrative officer.
(4) Be a reputable citizen of good moral character.
(5) Have the proper experience and training to efficiently manage the health center and to supervise or provide necessary

and proper care and treatment for the patients and residents in the health center.

(c) The administrator may not be removed except for cause by a majority vote of the board of commissioners, upon charges preferred by a majority of the board of managers.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-16

Health center administrator; duties; membership on board of managers

Sec. 16. (a) The administrator:

(1) is the chief executive and administrative officer of the health center;

(2) shall serve as secretary of the board of managers; and

(3) shall perform all duties and functions of administrator as provided by law under the direction and supervision of the board of managers.

(b) The administrator is not a voting member of the board of managers.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-17

Health center administrator; travel expenses reimbursement

Sec. 17. In addition to any other compensation, the administrator is entitled to travel reimbursement on a per mile basis commensurate with that paid to state officers and employees according to the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency for each mile travelled in the discharge of the administrator's duties, but within the lawfully established appropriation made for this purpose.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-18

Health center administrator; duties

Sec. 18. (a) The administrator, as chief executive and administrative officer of the health center, has duties that, subject to the bylaws, rules, regulations, and powers of the board of managers, include the following:

(1) The administrator shall equip the health center with all necessary furniture, appliances, fixtures, and other necessary facilities for the care and treatment of patients and for the use of the officers and employees of the health center as prescribed by law. All necessary supplies and equipment shall be purchased through and under the laws, rules, and regulations of the central purchasing agency of the county. However, raw food purchases are the responsibility of the health center administrator. The administrator shall appoint the county purchasing agent or other deputy purchasing agent of the county purchasing agency to act as a health center central purchasing manager.

(2) The administrator shall maintain control of the records,

accounts, and buildings of the health center.

(3) The administrator shall enforce all rules and regulations adopted by the board of managers for the government, discipline, and management of the health center and the health center's employees and patients. The administrator may make additional rules and regulations not inconsistent with the rules, regulations, and directions of the board of managers.

(4) The administrator shall, with the approval of the board of managers, appoint one (1) physician holding an unlimited license to practice medicine, surgery, and obstetrics in Indiana to the position of medical director of the health center or appoint a medical director for each division. In addition, the administrator shall do the following:

(A) Employ within the numbers and classes of employees and salary limits established by the board of commissioners and the county council in the annual budget the following:

(i) Physicians.

(ii) Department heads.

(iii) Nurses.

(iv) Other employees that the administrator considers proper and necessary for the efficient performance of the business of the health center.

(B) Prescribe the duties of each individual employed within the guidelines established by the board of managers.

(5) The administrator shall do the following:

(A) Cause proper accounts and records of business and operations of the health center to be kept regularly in books and records prescribed by the chart of accounts for hospitals and the state board of accounts.

(B) Use the accounts and records to prepare an annual report for the board of managers.

(6) The administrator is responsible for receiving patients into the health center as follows:

(A) A resident of the county who is suffering from tuberculosis or another chronic disease designated by the board of managers may be admitted to the hospital division.

(B) A resident of the county who is aged, blind, destitute, homeless, infirm, chronically ill, or in need of nursing or convalescent care may be admitted to the nursing home division.

(C) A nonresident of the county may be admitted to the health center only as prescribed in this section.

(7) The administrator shall do the following:

(A) Cause an examination to be made of the physical condition of each person admitted to the health center.

(B) Provide for the care and treatment of each patient within the resources and capabilities of the health center according to the patient's needs.

(C) Cause a record to be kept of the condition of each patient when admitted.

(D) See that each patient is reexamined periodically.

(8) The administrator shall discharge from the health center any patient who:

(A) willfully or habitually violates the rules of the health center;

(B) is found to have recovered from tuberculosis or other chronic disease; or

(C) has been rehabilitated sufficiently not to require the services of the health center.

(9) The administrator shall establish clinical and ancillary services for inpatients and outpatients of the health center as the board of managers may designate. Clinical and ancillary services include the following:

(A) Outpatient tuberculosis clinic.

(B) Outpatient chronic disease clinic.

(C) Inhalation therapy.

(D) Physical therapy services.

(E) Podiatric medicine services.

(F) Dental services.

(G) Optometry services.

(H) Speech and hearing services.

(I) Social/psychiatric services.

(b) All clinical and ancillary services established under subsection (a)(9) must be available to patients from all counties affiliated with or having an interest in the health center.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-19

Health center fund; collection of money; premiums on bonds and insurance

Sec. 19. (a) The administrator or the administrator's delegate shall do the following:

(1) Collect and receive all money due the hospital.

(2) Deposit all checks for collection in the name of the hospital in a bank designated by the board of commissioners of the county owning the hospital.

(3) Keep an accurate account of the money collected and checks deposited.

(4) Make a written report of the money collected and checks deposited to the board of managers at the regular monthly meeting of the board of managers.

(b) Within ten (10) days after a monthly meeting at which a report is presented under subsection (a)(4) on money collected and checks deposited, the board of managers shall cause the money to be transmitted to the treasurer of the county owning the hospital. The treasurer shall place the money in a special fund to be named the county health center fund.

(c) The county health center fund is for the use of the hospital and may not be used for any other purpose. Money from the fund may be disbursed only upon warrant issued by the county auditor.

(d) The board of managers shall allow the bills and accounts without advertising the filing of the claims and shall certify and transmit the claims to the county auditor, who shall provide for payment from appropriations made for that purpose by the county council.

(e) The premiums on all bonds and insurance that are required by this chapter, by law, or by the action of the board of commissioners shall be paid in the same manner as other expenses of the health center are paid out of the appropriation for fixed charges, unless otherwise expressly provided by law.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-20

Procedures, rules, and regulations

Sec. 20. The board of managers shall adopt all policies, procedures, rules, and regulations for the government of the health center. The administrator shall discharge all administrative and executive duties and responsibilities of the health center, subject to the approval of the board of managers.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-21

Health center board of managers; recommendations for salaries and benefits; officers and employees; bonds

Sec. 21. (a) The board of managers shall recommend in the budget of the board of managers, subject to approval of the board of commissioners and the county council, the number and classes of employees of the health center and the salaries and fringe benefits of the officers and employees of the health center. The salaries and fringe benefits of the officers and employees shall be compensation in full for all services provided, unless specifically provided for in this chapter.

(b) The board of managers shall designate the officers and employees who must, before entering upon the discharge of the officers' or employees' duties, give a bond in an amount determined by the board of managers to secure the faithful performance of the officers' or employees' duties.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-22

Health center board of managers; duties

Sec. 22. The board of managers shall do the following:

(1) Supervise the maintenance and operation and services of the health center.

(2) Supervise and safeguard the health, safety, welfare, and comfort of the patients and residents of the health center.

(3) Review and approve the annual budget of the health center before submission for final approval and request for appropriation by the board of commissioners, using budget forms and procedures prescribed by the state board of accounts

and the chart of accounts for hospitals.

(4) Approve payment of all bills and accounts.

(5) Adopt rules and regulations for admissions to the health center as provided by law, subject to the approval of the board of commissioners.

(6) Recommend to the board of commissioners necessary additions, repairs, and improvements to the buildings and grounds and physical plant of the health center.

(7) Review annual estimates and requests for foods, supplies, and equipment for the health center.

(8) Plan for and interpret to the board of commissioners and the county council the requirements of the health center.

(9) Cooperate with other public and private agencies and facilities of the county and state.

(10) Improve and extend the services and facilities of the health center that the board of managers considers necessary or desirable.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-23

Health center board of managers; development plan; cooperation with other agencies

Sec. 23. The board of managers shall plan for the effective development of the health center for the public benefit and is empowered to cooperate with all agencies of government to accomplish this purpose.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-24

Health center board of managers; inspection of facilities

Sec. 24. The board of managers shall regularly inspect all facilities of the health center. In the inspections, the board of managers shall examine the following:

(1) The sufficiency and performance of the personnel.

(2) The health, medical care, and nursing care of patients and residents.

(3) Drug handling and purchasing.

(4) Mechanical restraint and seclusion.

(5) Food service and food sanitation.

(6) Water supply.

(7) Sanitation and sewage disposal.

(8) Physical plant and equipment.

(9) Safety standards as required by federal and state law.

(10) Community clinical and ancillary services for inpatients and outpatients.

(11) The handling of mail and assistance warrants of patients and residents.

(12) Other items that the board of managers considers necessary.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-25
Admissions; nondiscriminatory basis

Sec. 25. The board of managers shall ensure that admissions to the health center are made on a nondiscriminatory basis.
As added by P.L.2-1992, SEC.24.

IC 12-30-7-26
Health center board of managers; grants, devises, gifts, bequests, and donations

Sec. 26. (a) The board of managers shall accept and hold in trust for the health center the following:

(1) A grant or devise of real property.
(2) A gift or bequest of money or other property.
(3) Any other donation.

(b) The board of managers shall apply the grant, devise, gift, bequest, or donation in accordance with the terms of the grant, devise, gift, bequest, or donation and as the board of managers considers beneficial to the health center.
As added by P.L.2-1992, SEC.24.

IC 12-30-7-27
Tuberculosis defined; contracting for care of afflicted individuals; utilization of hospital division; care for individuals suffering from other chronic diseases

Sec. 27. (a) "Tuberculosis", as used in this section, includes other chronic diseases within the limitations set forth in subsection (c), unless the context clearly requires otherwise. However, the money that the state contributes for tuberculosis cases is not available for individuals not afflicted with tuberculosis.

(b) The board of managers may contract with persons, municipalities, counties, and other agencies for the care and treatment of individuals afflicted with tuberculosis or other chronic diseases.

(c) The board of managers shall determine, as of January 1 and July 1 of each year, whether the facilities of the hospital division are fully utilized in the case of patients suffering from tuberculosis. If the board of managers finds that:

(1) the facilities are not being fully utilized in the case of patients suffering from tuberculosis; and
(2) the demand for care of tuberculosis patients does not warrant the full utilization of the hospital division for that purpose;

the board of managers may authorize the hospital division to furnish nursing care and restorative services to individuals suffering from chronic illness other than tuberculosis, so that the facilities of the hospital division are fully utilized, upon the terms and conditions of admission, treatment, care, and payment that the board of managers prescribes.
As added by P.L.2-1992, SEC.24.

IC 12-30-7-28
Health center budget; approval by county fiscal body

Sec. 28. The budget of a health center established under this chapter is subject to approval of the county fiscal body in the same manner as the budgets of other county offices and departments.
As added by P.L.2-1992, SEC.24.

IC 12-30-7-29
Counties without health center; contracts for services

Sec. 29. (a) The board of commissioners of a county that does not have a health center as provided in this chapter may contract for the care and treatment of the county's residents afflicted with tuberculosis and other chronic diseases with a county that has established a health center under this chapter. The board of commissioners of the county seeking care and treatment for the county's residents may contract directly with the health center.

(b) The county fiscal body of a contracting county shall appropriate out of the county's general fund an amount of money sufficient to meet the terms of the contract, and the money appropriated constitutes a special fund for that purpose. The:

(1) contracting county may levy a tax in an amount necessary to meet the terms of the contract; or

(2) commissioners may pay the amount due the health center out of the general fund.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-30
County contracting for health center services; official visitor; appointment; term of office; duties; board of visitors

Sec. 30. (a) The board of commissioners of a contracting county shall appoint an official visitor to the health center. The term of office of the official visitor is three (3) years.

(b) The official visitor, in conjunction with the local board of health, the tuberculosis and respiratory disease agencies of the contracting county, or both, shall do the following:

(1) Prepare all of the papers and documents necessary for the admission of the patient from the contracting county.

(2) Inspect and visit the patient in the patient's home and investigate the patient's financial condition.

(3) Report the facts to the board of commissioners at the time of the presentation of the admission papers for approval.

(c) The official visitor shall cause to be transported to and from the health center the patients of the contracting county.

(d) The official visitors appointed by the boards of commissioners of the contracting counties constitute the board of visitors. The members of the board of visitors shall do the following:

(1) Meet at least annually at the health center.

(2) Transact the business of their respective counties.

(3) Report to their respective boards of commissioners.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-31

Tuberculosis and other chronic diseases; application for treatment

Sec. 31. (a) A resident of the county in which the health center is situated who desires treatment and care of tuberculosis or other chronic diseases in the health center may apply in person to the health center or to any physician for examination. If found to be suffering from tuberculosis or other chronic disease, the county resident may apply to the administrator of the health center for admission.

(b) The health center shall provide application forms for the purposes of this section, and the administrator shall forward application forms to a physician in the county upon request. Each application submitted under this section must state facts showing whether the applicant is able to pay, in whole or in part, for the care and treatment the applicant will receive while at the health center.

(c) If it appears on an application submitted under this section that the applicant is suffering from tuberculosis or other chronic disease and if there is a vacancy in the health center, the administrator shall notify the applicant named in the application to appear in person at the health center. If, upon examination of the applicant, the administrator is satisfied that:

(1) the applicant is suffering from tuberculosis or other chronic disease; and

(2) the applicant has made financial arrangements for the applicant's own care and treatment to the extent of the applicant's ability;

the administrator shall admit the applicant to the health center as a patient.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-32

Discrimination because of race, creed, national origin, or ability to pay; prohibition

Sec. 32. Discrimination may not be made in accommodation, care, or treatment of any patient at a health center established under this chapter because of race, creed, national origin, or ability to pay.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-33

Financial investigation of patient; support order; liability of patient's estate and relatives; reimbursement from public assistance programs

Sec. 33. (a) Whenever a patient has been admitted to a health center from the county in which the health center is situated, the administrator shall cause an inquiry to be made as to the financial circumstances of the patient and of any relatives of the patient who may be legally liable for the patient's support. If the administrator finds that the patient or the patient's relatives are able to pay for the patient's care and treatment, in whole or in part, an order shall be made directing the patient or the relative to pay a specified amount per month to the health center for the support of the patient.

(b) The health center may collect the amount from the estate of the

patient or from relatives legally liable for the patient's support. If the administrator finds that the patient or the patient's relatives are not able to pay, the administrator may seek reimbursement from the county office, Medicare, Medicaid, private insurance companies, the township trustee as the administrator of township assistance, or the county general fund, depending on the eligibility of the patient for assistance from the county office or program.
As added by P.L.2-1992, SEC.24. Amended by P.L.4-1993, SEC.228; P.L.5-1993, SEC.241; P.L.73-2005, SEC.164.

IC 12-30-7-34
Patients from counties without health centers; treatment for tuberculosis or other chronic diseases; application; examination; charges; financial investigation

Sec. 34. (a) An individual who:

(1) resides in a county where there is no health center; and

(2) desires treatment in a health center as provided for in this chapter;

may apply for treatment to the county auditor or official visitor of the county, on a form to be provided by the official visitor. An application submitted under this section must be accompanied by a signed certificate stating that the applicant has been examined by a physician and that in the physician's opinion the patient is suffering from tuberculosis or other chronic disease.

(b) The auditor shall, upon receipt of an application and certificate filed under subsection (a), forward the certificate to the board of commissioners. If the board of commissioners find that the facts contained in the application are true, the board of commissioners shall make a record of the application and forward the application to the health center administrator. If the patient is accepted by the health center, the board of commissioners shall provide transportation for the patient and shall provide for the patient's maintenance in the health center at the rate provided for in the contract.

(c) Upon receiving an application for the admission of a patient from the board of commissioners of any other county, the administrator of a health center shall request that the patient appear in person for an examination at the health center if:

(1) it appears from the application that the applicant is suffering from tuberculosis or other chronic disease;

(2) there is a vacancy in the health center; and

(3) there is no pending application from a patient residing in the county in which the health center is located.

(d) If upon examination of the patient by the medical staff of the health center the administrator is satisfied that the patient is suffering from tuberculosis or other chronic disease, the administrator shall admit the patient to the health center.

(e) A patient admitted under this section is a charge against the board of commissioners of the county sending the patient, at a rate fixed by the board of commissioners, and the bill shall, when verified, be paid by the auditor of the contracting county.

(f) The board of commissioners of the contracting county shall cause an investigation to be made into the financial circumstances of the patient and the relatives legally liable for the patient's support and may collect from the relatives, in whole or in part, according to the financial ability of the relatives, the cost of the maintenance of the patient in the health center.
As added by P.L.2-1992, SEC.24.

IC 12-30-7-35
Admissions; voluntary basis
Sec. 35. Admission of all health care facility patients and residents in the health center shall be on a voluntary basis.
As added by P.L.2-1992, SEC.24.

IC 12-30-7-36
Care outside scope of care provided by health center; arrangements
Sec. 36. Whenever a patient or resident in the health center requires hospitalization, medical care, nursing care, or other care outside the scope of that provided by the health care facility division, hospital division, or any other division of the health center, arrangements shall be made promptly for furnishing necessary care.
As added by P.L.2-1992, SEC.24.

IC 12-30-7-37
Rehabilitation work; voluntary basis
Sec. 37. Participation by patients or residents of the division in work of the health center for rehabilitation purposes shall be on a voluntary basis.
As added by P.L.2-1992, SEC.24.

IC 12-30-7-38
Community life
Sec. 38. Effort shall be made to provide community life and opportunities for activities, under the direction of a physician, that are consistent with the mental and physical well-being of the residents or patients.
As added by P.L.2-1992, SEC.24.

IC 12-30-7-39
Amount of charges
Sec. 39. The amount to be charged for the care and treatment of patients or residents in a health center established under this chapter shall be an amount sufficient to cover the operating cost of the health center. The board of managers shall set the per diem or room and board rates for each division of the health center and the clinic or ancillary service charges.
As added by P.L.2-1992, SEC.24.

IC 12-30-7-40

Health center board of managers; prosecution and defense of suits

Sec. 40. The board of managers may prosecute and defend suits in its own name. A suit may be brought against the board of managers in any court with jurisdiction in the county. A notice or summons concerning a suit against the board of managers shall be served upon the administrator.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-41

Health center board of managers; other powers and duties necessary to administration of chapter

Sec. 41. The board of managers has all other rights and powers and shall perform all other duties that are necessary to administer this chapter.

As added by P.L.2-1992, SEC.24.

IC 12-30-7-42

Immunity from personal liability

Sec. 42. The:

(1) members of the board of managers;

(2) administrator; and

(3) the officers and employees of the health center;

are not personally liable, except to the county, for an official act done or omitted in connection with the performance of their respective duties under this chapter.

As added by P.L.2-1992, SEC.24.

IC 12-31

ARTICLE 31. REPEALED

(Repealed by P.L.138-2014, SEC.4.)

IC 12-32

ARTICLE 32. RESTRICTIONS ON PUBLIC BENEFITS

IC 12-32-1

Chapter 1. Restrictions on Public Benefits to Illegal Aliens

IC 12-32-1-1

"Agency"

Sec. 1. As used in this chapter, "agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.

As added by P.L.171-2011, SEC.13.

IC 12-32-1-2

"Federal public benefit"

Sec. 2. As used in this chapter, "federal public benefit" has the meaning set forth in 8 U.S.C. 1611.

As added by P.L.171-2011, SEC.13.

IC 12-32-1-3

"State or local public benefit"

Sec. 3. (a) As used in this chapter, "state or local public benefit" has the meaning set forth in 8 U.S.C. 1621.

(b) The term includes:

(1) a postsecondary education award, including a scholarship, a grant, or financial aid; and

(2) the resident tuition rate (as determined by the state educational institution).

As added by P.L.171-2011, SEC.13.

IC 12-32-1-4

Enforced without discrimination

Sec. 4. This chapter shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

As added by P.L.171-2011, SEC.13.

IC 12-32-1-5

Verification required; exceptions; health care provider alternative

Sec. 5. (a) Notwithstanding any other provision of law and except as otherwise provided under federal law and subsections (b), (d), and (e), an agency or a political subdivision shall verify, in the manner required under section 6 of this chapter, the eligibility of any individual who:

(1) is at least eighteen (18) years of age; and

(2) applies for state or local public benefits or federal public benefits that are provided by the agency or the political subdivision.

(b) A health care provider (as defined in IC 16-18-2-163(a)) is not

required to verify the eligibility of an individual as required under subsection (a) if the health care provider is providing health care services for the treatment of an emergency medical condition (as defined in 42 U.S.C. 1396b(v)(3)).

(c) With regard to a state or local public benefit or a federal public benefit that covers health care services, a health care provider (as defined in IC 16-18-2-163) satisfies the requirements of this chapter if the health care provider complies with the eligibility verification policies and procedures for providing the benefit that is established by the:

(1) office of the secretary of family and social services; or

(2) federal Department of Health and Human Services.

(d) A state educational institution is not required to verify the eligibility of an individual as required under subsection (a) if all the following apply:

(1) The individual is eligible to pay the resident tuition rate of the state educational institution.

(2) The individual is not applying for any state or local public benefit or federal public benefit other than the resident tuition rate that:

(A) is provided by the state educational institution; and

(B) would require verification under this chapter.

(3) The individual was enrolled in a state educational institution on or before July 1, 2011.

(e) An agency or a political subdivision is not required to verify the eligibility of an individual as required under subsection (a) if all the following apply:

(1) The individual is applying for a scholarship, a grant, or financial aid for postsecondary education.

(2) The individual is not applying for any state or local public benefit or federal public benefit other than the benefit described in subdivision (1) that:

(A) is provided by the agency or political subdivision; and

(B) would require verification under this chapter.

(3) The individual is:

(A) an international student with bona fide legal status; and

(B) enrolled in a state educational institution.

As added by P.L.171-2011, SEC.13. Amended by P.L.180-2013, SEC.1.

IC 12-32-1-6

Execute verification; maintain verification

Sec. 6. An agency or a political subdivision required to verify the eligibility of an individual under section 5 of this chapter shall:

(1) require the individual to execute a verification stating under penalty of perjury that the individual is a:

(A) United States citizen; or

(B) qualified alien (as defined under 8 U.S.C. 1641); and

(2) maintain a verification executed in accordance with subdivision (1) for at least five (5) years.

As added by P.L.171-2011, SEC.13.

IC 12-32-1-7
Crime to make false, fictitious, or fraudulent statement or representation in verification

Sec. 7. A person who knowingly or intentionally makes a false, fictitious, or fraudulent statement or representation in a verification required by this chapter commits a Level 6 felony.

As added by P.L.171-2011, SEC.13. Amended by P.L.158-2013, SEC.184.

IC 12-32-1-8
Variation of requirements

Sec. 8. An agency may adopt a variation of the requirements set forth in this chapter to provide for an adjudication in the case of unique individual circumstances under which the procedures set forth in this chapter would impose unusual hardship on a legal resident of Indiana.

As added by P.L.171-2011, SEC.13.

IC 12-32-1-9
State board of accounts; adopt rules; variation of requirements

Sec. 9. The state board of accounts:

(1) shall adopt rules under IC 4-22-2, applicable to all political subdivisions, to carry out this chapter; and

(2) may adopt a variation of the requirements set forth in this chapter, applicable to all political subdivisions, to provide for an adjudication in the case of unique individual circumstances under which the procedures set forth in this chapter would impose an unusual hardship on a legal resident of Indiana.

As added by P.L.171-2011, SEC.13.

IC 12-32-1-10
Adopt rules

Sec. 10. An agency may adopt rules under IC 4-22-2 to carry out this chapter.

As added by P.L.171-2011, SEC.13.