



January 28, 2014

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## HOUSE BILL No. 1391

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DIGEST OF HB 1391 (Updated January 28, 2014 12:28 pm - DI 92)

**Citations Affected:** IC 12-7; IC 12-10.

**Synopsis:** CHOICE program. Changes asset limitations within the community and home options to institutional care for the elderly and disabled program (program) from \$500,000 to \$250,000 and specifies certain exemptions from the asset determination. Requires annual adjustment of the asset limitation using the federal Consumer Price Index. Allows a participant who is unable to perform at least one activity of daily living or one activity to participate in the program under specified circumstances. Requires the division of aging to: (1) establish a cost participation schedule for a program participant based on the participant's income and assets; and (2) redistribute certain savings obtained by family members and community members providing services at no cost to the program to the participant and the area agencies of aging. Allows the division of aging to: (1) annually redetermine whether certain participants whom the division determines are likely to experience a material increase in income or assets remain eligible for the program; and (2) place a lien to recoup the cost of services that exceed \$10,000 for an individual in the same manner as liens that are placed under the Medicaid program. Requires the division of aging to exclude \$10,000 of a participant's countable assets from consideration in determining a participant's cost participation.

**Effective:** July 1, 2014.

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### Clere, Brown C, Negele

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January 21, 2014, read first time and referred to Committee on Family, Children and Human Affairs.

January 23, 2014, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

January 28, 2014, amended, reported — Do Pass.

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HB 1391—LS 6662/DI 104





January 28, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1391

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A BILL FOR AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 12-7-2-49.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2014]: **Sec. 49.5. "CPI", for purposes of IC 12-10-10, has the**  
4 **meaning set forth in IC 12-10-10-2.5.**  
5 SECTION 2. IC 12-10-10-1 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. As used in this  
7 chapter, "case management" means an administrative function  
8 conducted locally by an area agency on aging that includes the  
9 following:  
10 (1) Assessment of an individual to determine the individual's  
11 functional impairment level and corresponding need for services.  
12 **(2) Initial verification of an individual's income and assets.**  
13 ~~(2)~~ **(3) Development of a care plan addressing that:**  
14 **(A) addresses** an eligible individual's needs;  
15 **(B) takes into consideration the individual's family and**  
16 **community members who are willing to provide services to**

HB 1391—LS 6662/DI 104



- 1           **meet any of the individual's needs; and**  
 2           **(C) is consistent with a person centered approach to client**  
 3           **care.**  
 4           ~~(3)~~ **(4)** Supervision of the implementation of appropriate and  
 5           available services for an eligible individual.  
 6           ~~(4)~~ **(5)** Advocacy on behalf of an eligible individual's interests.  
 7           ~~(5)~~ **(6)** Monitoring the quality of community and home care  
 8           services provided to an eligible individual.  
 9           ~~(6)~~ **(7)** Reassessment of the care plan to determine:  
 10            **(A)** the continuing need and effectiveness of the community  
 11           and home care services provided to an eligible individual  
 12           under this chapter; **and**  
 13            **(B) the annual reverification of a plan recipient's income**  
 14            **and assets, as may be required by the division under**  
 15            **section 4(e) of this chapter.**  
 16           ~~(7)~~ **(8)** Provision of information and referral services to  
 17           individuals in need of community and home care services.  
 18           SECTION 3. IC 12-10-10-2.5 IS ADDED TO THE INDIANA  
 19           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 20           [EFFECTIVE JULY 1, 2014]: **Sec. 2.5. As used in this chapter,**  
 21           **"CPI" refers to the United States Bureau of Labor Statistics**  
 22           **Consumer Price Index, all items, all urban consumers, or its**  
 23           **successor index.**  
 24           SECTION 4. IC 12-10-10-4, AS AMENDED BY P.L.99-2007,  
 25           SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26           JULY 1, 2014]: Sec. 4. (a) As used in this chapter, "eligible individual"  
 27           means an individual who **meets the following criteria:**  
 28            (1) Is a resident of Indiana.  
 29            (2) Is:  
 30                (A) at least sixty (60) years of age; or  
 31                (B) an individual with a disability.  
 32            (3) Has assets **that meet the following criteria:**  
 33                **(A) For an individual who participates in the program on**  
 34                **June 30, 2014, and remains a participant in the program,**  
 35                **assets that do not exceed five hundred thousand dollars**  
 36                **(\$500,000), as determined by the division. and**  
 37                **(B) For an individual who applies for the program after**  
 38                **June 30, 2014, assets that do not exceed two hundred fifty**  
 39                **thousand dollars (\$250,000) adjusted by the CPI, as set**  
 40                **forth in subsection (c). In determining assets under this**  
 41                **clause, the division:**  
 42                    (i) may count only property that is included in



1 **determining assets in the Medicaid aged and disabled**  
 2 **waiver program in determining an individual's eligibility**  
 3 **for the aged and disabled waiver; and**

4 **(ii) shall exclude an additional ten thousand dollars**  
 5 **(\$10,000) in countable assets, as adjusted by the CPI as**  
 6 **set forth in subsection (c).**

7 (4) Qualifies under criteria developed by the board as having an  
 8 impairment that places the individual at risk of losing the  
 9 individual's independence, as described in subsection (b).

10 (b) For purposes of subsection (a), an individual is at risk of losing  
 11 the individual's independence if the individual is unable to perform **any**  
 12 **of the following:**

13 **(1) Two (2) or more activities of daily living. The use by or on**  
 14 **behalf of the individual of any of the following services or devices**  
 15 **does not make the individual ineligible for services under this**  
 16 **chapter:**

17 ~~(A)~~ **(A)** Skilled nursing assistance.

18 ~~(B)~~ **(B)** Supervised community and home care services,  
 19 including skilled nursing supervision.

20 ~~(C)~~ **(C)** Adaptive medical equipment and devices.

21 ~~(D)~~ **(D)** Adaptive nonmedical equipment and devices.

22 **(2) One (1) activity of daily living, if the area agency on aging**  
 23 **determines that addressing the single activity of daily living**  
 24 **would significantly reduce the likelihood of the individual's**  
 25 **loss of independence and the need for additional services.**

26 **(3) An activity, if the area agency on aging determines that**  
 27 **targeted intervention or assistance with the activity would**  
 28 **significantly reduce the likelihood of the individual's loss of**  
 29 **independence and the need for additional services.**

30 **(c) Before June 1, 2015, and before June 1 of each subsequent**  
 31 **year, the division shall determine an adjusted asset limit to be used**  
 32 **for purposes of subsection (a)(3)(B) and section 13 of this chapter**  
 33 **in the following state fiscal year. The adjusted asset limit for the**  
 34 **following state fiscal year shall be determined as follows:**

35 **STEP ONE: Determine the percentage change between:**

36 **(A) the CPI as last reported for the calendar year ending**  
 37 **in the state fiscal year in which the determination is made;**  
 38 **and**

39 **(B) the CPI as last reported for the calendar year that**  
 40 **precedes the calendar year described in clause (A).**

41 **STEP TWO: Express the percentage change determined in**  
 42 **STEP ONE as a two (2) digit decimal rounded to the nearest**



1           **hundredth. A negative percentage change under this STEP**  
 2           **must be treated as zero (0).**

3           **STEP THREE: Add one (1) to the STEP TWO result.**

4           **STEP FOUR: Multiply:**

5               **(A) the STEP THREE result; by**

6               **(B) the asset limit used for purposes of subsection (a)(3)(B)**

7               **in the state fiscal year in which the determination is made.**

8           **Before June 15, 2015, and before June 15 of each subsequent year**  
 9           **the division shall publish in the Indiana Register the adjusted asset**  
 10           **limit to be used for purposes of subsection (a)(3)(B) in the following**  
 11           **state fiscal year.**

12           **(d) The division shall establish a cost participation schedule for**  
 13           **a program recipient based on the program participant's income**  
 14           **and countable assets. The division shall exclude ten thousand**  
 15           **dollars (\$10,000) of a participant's countable assets from**  
 16           **consideration in determining a participant's cost participation.**

17           **(e) The division may require annual reverification for program**  
 18           **participants whom the division determines are likely to experience**  
 19           **a material increase in income or assets. An individual shall submit**  
 20           **the information requested by the division to carry out the**  
 21           **redetermination allowed by this subsection.**

22           **(f) The division may not require a family or other person to**  
 23           **provide services as a condition of an individual's eligibility for the**  
 24           **program.**

25           **SECTION 5. IC 12-10-10-7 IS AMENDED TO READ AS**  
 26           **FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) Except as**  
 27           **provided in subsection (b), the case management under this chapter of**  
 28           **an individual leading to participation in the program may not be**  
 29           **conducted by any agency that delivers services under the program.**

30           **(b) If the division determines that there is no alternative agency**  
 31           **capable of delivering services to the individual, the area agency on**  
 32           **aging that performs the assessment under the program may also deliver**  
 33           **the services.**

34           **(c) The division shall provide the necessary funding to provide**  
 35           **case management services for the program.**

36           **SECTION 6. IC 12-10-10-9 IS AMENDED TO READ AS**  
 37           **FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) The division shall**  
 38           **establish a program to train relatives of eligible individuals to provide**  
 39           **homemaker and personal care services to those eligible individuals.**

40           **(b) Relatives of eligible individuals who complete the training**  
 41           **program established under this section are eligible for reimbursement**  
 42           **under this chapter or under the Medicaid program for the provision of**



1 homemaker and personal care services to those eligible individuals.  
2 Reimbursement under the Medicaid program is limited to those cases  
3 in which the provision of homemaker and personal care services to an  
4 eligible individual by a relative results in financial hardship to the  
5 relative.

6 **(c) For services that an individual is eligible to receive under the**  
7 **program but receives from a relative or other individual without**  
8 **receiving compensation, the division shall distribute the program**  
9 **savings from not paying for the services as follows:**

10 **(1) Twenty percent (20%) of the savings to offset the**  
11 **individual's cost share amount for participating in the**  
12 **program, if any.**

13 **(2) Thirty percent (30%) of the savings to the area agency on**  
14 **aging for the use in funding home and community based**  
15 **services.**

16 **(3) The remaining amount of the program savings after the**  
17 **distribution under subdivisions (1) and (2) to be retained by**  
18 **the area agency on aging for the program.**

19 SECTION 7. IC 12-10-10-13 IS ADDED TO THE INDIANA  
20 CODE AS A NEW SECTION TO READ AS FOLLOWS  
21 [EFFECTIVE JULY 1, 2014]: **Sec. 13. (a) The division may obtain**  
22 **a lien on the program recipient's real property for the cost of**  
23 **services provided to the individual in the program if the cost of the**  
24 **services exceeds ten thousand dollars (\$10,000), as adjusted by the**  
25 **CPI under section 4(c) of this chapter, in the same manner and**  
26 **with the same requirements as the office obtains a lien against a**  
27 **Medicaid recipient under IC 12-15-8.5.**

28 **(b) The division may adopt rules necessary under IC 4-22-2 to**  
29 **implement this section.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1391, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 14, after "assets." insert "**The division shall exclude ten thousand dollars (\$10,000) of a participant's countable assets from consideration in determining a participant's cost participation.**".

and when so amended that said bill do pass.

(Reference is to HB 1391 as introduced.)

KUBACKI, Chair

Committee Vote: yeas 12, nays 0.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1391, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 32, delete "14" and insert "**13**".

Page 5, delete lines 19 through 25.

Page 5, line 26, delete "IC 12-10-10-14" and insert "IC 12-10-10-13".

Page 5, line 28, delete "14." and insert "**13.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1391 as printed January 24, 2014.)

BROWN T, Chair

Committee Vote: yeas 13, nays 4.

