

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:

SOURCE: IC 12-9.1-1.4. SECTION 1. IC 12-9.1-1-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Sec. 4. (a) The division may establish an office within the division to implement this chapter.

- (b) Not later than July 1, 2012, the division shall:**
 - (1) implement a program and standards for identifying, recruiting, training, certifying and enrolling individuals to be independent providers of home and community based services for individuals; and**
 - (2) establish a network of independent providers of home and community based services for individuals.**
- (c) The division may contract with a state educational institution or an area agency on aging in implementing the program described in subsection (b).**
- (d) The division shall consult with the following in developing the program and standards described in subsection (b):**
 - (1) The area agencies on aging.**
 - (2) Indiana Association for Home and Hospice Care.**
 - (3) Indiana Home Care Task Force.**
 - (4) Organizations representing senior citizens with statewide membership.**
 - (5) Organizations representing persons with disabilities with statewide membership.**
- (e) The division shall do the following:**
 - (1) Create and maintain a statewide registry that lists independent home and community based services providers who have been trained and certified by the division, and provide the list of names by each area agencies on aging district.**
 - (2) Identify liability and health insurance options for independent home and based services providers.**
 - (3) Establish fiscal intermediary services within the division for individuals who are consumers of self-directed home and community based services through the community and home options to institutional care for elderly and disabled program (CHOICE) and the Medicaid aged and disabled waiver.**
 - (4) Create in service training and professional enrichment programs with the area agencies on aging for maintaining the skills and quality of services by independent home and community based services providers.**
 - (5) Maintain a self-directed care hotline and support services to address emergencies and other needs of individuals who are consumers of self-directed home and community based services.**
- (f) The division may review options to participate in federal programs that support the establishment and development of networks for home and**

community based services including provisions with the federal patient protection and affordable care act (PPACA).

SOURCE: IC 12-10-12-10. SECTION 2. IC 12-10-12-10 IS AMENDED TO READ AS FOLLOW [EFFECTIVE JULY 1, 2011]: 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 the 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 and the office of all long term care options under the law 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.

SOURCE: IC 12-10-12-16. SECTION 3. IC 12-10-12-16, AS AMENDED BY P.L. 121-2008, SECTION 4, IS AMENDED TO READ AS FOLLOW [EFFECTIVE JULY 1, 2011]:

Sec. 16. (a) A screening team shall conduct a nursing facility preadmission screening program for each individual with 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, 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.

(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.

(d) A representative :

- (1) of the agency serving the area in which the individual's residence is located;**
- (2) who is familiar with personal care assessment; shall explain and provide a written copy of the results of the assessment to the individual or the individual's parent or guardian if the individual is not competent, in the least time practicable after the completion of the assessment.**

(e) In the explanation required in subsection (d), the representative shall include the services identified in subsection (a)(2).

SOURCE: IC 12-1012-28.5. SECTION 4. IC 12-10-12-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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 state and** the hospital's service area;
- (3) are known to the hospital,
- (4) are located near the patient's home or permanent residence whenever possible, and**
- (5) are approved by the patient or the patient's legal guardian.**

(b) The list described in subsection (a) must include:

- (1) contact information for the agency that provides services in the area in which the hospital is located;**
- (2) disclosure of any contractual or ownership ties that exist between the hospital with any long term care provider on the list; and**
- (3) a statement that a representative from the agency is available to provide additional information and counseling at no cost to the patient concerning long term care options.**

SOURCE: IC 12-10-17.1-10. SECTION 5. IC 12-10-17.1-10, AS ADDED BY P.L. 141-2006, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011.]:

Sec. 10. (a) An individual may not provide the attendant care **and homemaker** 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) Subject to rules adopted by the division under IC 4-22-2, an area agency on aging may train and certify under this chapter an individual who is a legally

responsible relative of an individual **who is at risk of being institutionalized and in need of self-directed in-home care to provide for compensation attendant care and homemaker services in an amount not to exceed eight (8) hours a day and five (5) days a week.**

SOURCE: IC 12-15-2.1. SECTION 6. IC 12-15-2.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 2.1. Presumptive Eligibility for Aged and Disabled Medicaid Waiver Applicants

Sec. 1. (a) An area agency on aging case manager and case manager supervisor may determine that an applicant who meets the following conditions is presumptively eligible for the Medicaid aged and disabled waiver:

- (1) The applicant or the applicant's legal guardian has completed the required Medicaid application form.**
- (2) The applicant meets the medical eligibility requirements in IC 12-10-11.5-4(2)(B).**
- (3) The applicant is at risk for being institutionalized if the applicant does not receive immediate long term care services.**

(b) The area agency on aging's determination that an individual is presumptively eligible for the Medicaid aged and disabled waiver under subsection (a):

- (1) must be based on information submitted by the applicant; and**
- (2) authorizes the immediate commencement of the provision of services needed by the applicant in compliance with rules adopted by the office under section 4 of this chapter.**

Sec. 2. The office shall apply to the United States Department of Health and Human Services for an amendment to the Medicaid aged and disabled waiver if an amendment is necessary to implement this chapter.

Sec. 3. The area agency on aging shall:

- (1) notify the office of the presumptive eligibility determination not later than five (5) business days after the date on which the determination is made; and**
- (2) forward the application to the county office in the county in which the applicant resides for a final eligibility determination in the manner specified by the office.**

Sec. 4. The office:

- (1) shall adopt rules under IC 4-22-2 concerning the services an individual may receive if the individual is determined to be presumptively eligible for the Medicaid aged and disabled waiver under this chapter; and**
- (2) may adopt rules under IC 4-22-2 to implement this chapter.**

SOURCE: SECTION 7. [EFFECTIVE JULY 1, 2011] **(a) The office of the secretary of family and social services, in consultation with the area agencies on aging, shall calculate:**

- (1) the number of individuals during the course of each state fiscal year who would have been served in a health facility; and**

(2) the average cost to serve each individual in a health facility or other institution under the Medicaid program if this act were not implemented.

(b) The office of the secretary shall use the savings calculated under subsection (a) for the purchase of home and community based services for additional individuals.

(c) This act is subject to funding available to the office of the secretary of family and social services, including federal funds. The office of the secretary shall ensure that the cost of the services provided under this act does not exceed funding made available to the office of the secretary for the program established under this act.

(d) This SECTION expires July 1, 2021.

(NOTE: SHOULD SECTION 7 BE CONVERTED TO PERMANENT CODE LANGUAGE?)