

# PROPOSED AMENDMENT

## HB 1414 # 9

### DIGEST

Physician reimbursement; home health agency cooperative agreements. Provides that if a physician has entered into a Medicaid provider agreement and the physician, subject to the provider agreement, provides emergency medical services to Medicaid recipients, the physician shall be promptly compensated for the services in accordance with a published autopay list. Prohibits any delay in or denial of compensation to the physician unless for specified reasons. Authorizes the establishment of home health agency cooperative agreements. (A similar law enacted in 2022 expired on July 1, 2023.) Makes statements and findings of the general assembly concerning home health agency cooperative agreements. Specifies that a home health agency may contract directly or indirectly through a network of home health agencies.

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- 1           Page 7, between lines 3 and 4, begin a new paragraph and insert:  
2           "SECTION 8. IC 12-15-12-24 IS ADDED TO THE INDIANA  
3           CODE AS A NEW SECTION TO READ AS FOLLOWS  
4           [EFFECTIVE JULY 1, 2024]: **Sec. 24. (a) If:**  
5                 **(1) a physician has entered into a provider agreement with:**  
6                         **(A) the office; or**  
7                         **(B) a managed care organization;**  
8                 **under IC 12-15-11-4(a) for the provision of emergency**  
9                 **services; and**  
10                 **(2) the physician, subject to the provider agreement referred**  
11                 **to in subdivision (1), provides emergency services to a**  
12                 **Medicaid recipient;**  
13                 **the office or the managed care organization shall promptly**  
14                 **compensate the physician for the emergency services in accordance**  
15                 **with the provider agreement. A managed care organization shall**  
16                 **reimburse the physician in accordance with an autopay list**  
17                 **published by the office.**  
18                 **(b) A physician's compensation under subsection (a) shall not be**  
19                 **delayed due to the retrospective review of the medical services**  
20                 **provided or for any other reason unless the cause of the delay is**  
21                 **specifically provided for in:**  
22                         **(1) this article;**  
23                         **(2) a rule adopted under this article;**

- 1           **(3) 42 CFR 438; or**
- 2           **(4) the provider agreement referred to in subsection (a)(1).**
- 3           **(c) A physician shall not be denied compensation for emergency**
- 4 **services to which subsection (a) applies unless the cause of the**
- 5 **denial is specifically provided for in:**
- 6           **(1) this article;**
- 7           **(2) a rule adopted under this article;**
- 8           **(3) 42 CFR 438; or**
- 9           **(4) the provider agreement referred to in subsection (a)(1).**
- 10          **(d) A managed care organization:**
- 11           **(1) may not deny a claim solely because the claim code is not**
- 12 **included on the office's autopay list; and**
- 13           **(2) shall consider each claim based on the prudent layperson**
- 14 **standard."**
- 15          Page 7, line 19, delete "through".
- 16          Page 7, line 19, after "(2)" insert "**through**".
- 17          Page 7, after line 29, begin a new paragraph and insert:
- 18          "SECTION 10. IC 16-27-6 IS ADDED TO THE INDIANA CODE
- 19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 20 JULY 1, 2024]:
- 21           **Chapter 6. Home Health Agency Cooperative Agreements**
- 22           **Sec. 0.5. (a) The general assembly recognizes the importance**
- 23 **and necessity of home health services and home health agencies to**
- 24 **promote and protect the public's general health, safety, and**
- 25 **welfare.**
- 26           **(b) The general assembly finds it necessary and appropriate to**
- 27 **encourage home health agencies to cooperate, take certain actions,**
- 28 **and enter into agreements that will facilitate improved quality of**
- 29 **care and increase access to home health services even if the**
- 30 **cooperation or actions may:**
- 31           **(1) be characterized as anticompetitive;**
- 32           **(2) result in the acquisition, maintenance, or use of market**
- 33 **power within the meaning of federal and state antitrust laws;**
- 34           **or**
- 35           **(3) otherwise have the effect of displacing competition.**
- 36           **(c) The general assembly believes that it is in the state's best**
- 37 **interest to supplant state and federal antitrust laws with:**
- 38           **(1) the process provided in this chapter; and**
- 39           **(2) active supervision from the secretary as set forth in this**
- 40 **chapter.**

1           (d) It is the intent of the general assembly that this chapter  
 2 immunize, to the fullest extent possible, a person from all federal  
 3 and state antitrust laws for any cooperation or action approved  
 4 and supervised under this chapter. This intent is within the public  
 5 policy of the state to facilitate the provision of quality and cost  
 6 efficient health care services to patients.

7           Sec. 1. The definitions in IC 16-27-1 apply throughout this  
 8 chapter.

9           Sec. 2. As used in this chapter, "office" refers to the office of the  
 10 secretary of family and social services established by IC 12-8-1.5-1.

11           Sec. 3. As used in this chapter, "secretary" refers to the  
 12 secretary of family and social services appointed under  
 13 IC 12-8-1.5-2.

14           Sec. 4. Home health agencies may enter into cooperative  
 15 agreements to carry out the following activities:

16           (1) To form and operate, either directly or indirectly, one (1)  
 17 or more networks of home health agencies to arrange for the  
 18 provision of health care services through such networks,  
 19 including to contract either directly or indirectly through a  
 20 network.

21           (2) To contract, either directly or through such networks, with  
 22 the office, or the office's contractors, to provide:

23           (A) services to Medicaid beneficiaries; and

24           (B) health care services in an efficient and cost effective  
 25 manner on a prepaid, capitation, or other reimbursement  
 26 basis.

27           (3) To undertake other managed health care activities.

28           Sec. 5. (a) Any health care provider licensed under this title or  
 29 IC 25 may apply to become a participating provider in the  
 30 networks described in this chapter provided the services the  
 31 provider contracts for are within the lawful scope of the provider's  
 32 practice.

33           (b) This section does not require a plan or network to provide  
 34 coverage for any specific health care service.

35           Sec. 6. A home health agency may authorize any of the  
 36 following, or any combination of the following, to undertake or  
 37 effectuate any of the activities identified in this chapter:

38           (1) The Indiana Association for Home and Hospice Care, Inc.

39           (2) Any subsidiary of the corporation named in subdivision

40           (1).

1           **Sec. 7. The secretary or the secretary's designee shall supervise**  
2 **and oversee the activities described in this chapter and may take**  
3 **the following actions:**

4           **(1) Gather relevant facts, collect data, conduct public**  
5 **hearings, invite and receive public comments, investigate**  
6 **market conditions, conduct studies, and review documentary**  
7 **evidence or require the home health agencies or their third**  
8 **party designee to do the same.**

9           **(2) Evaluate the substantive merits of any action to be taken**  
10 **by the home health agencies and assess whether the action**  
11 **comports with the standards established by the general**  
12 **assembly.**

13           **(3) Issue written decisions approving, modifying, or**  
14 **disapproving the recommended action, and explaining the**  
15 **reasons and rationale for the decision.**

16           **(4) Require home health agencies or their third party**  
17 **designees to report annually on the extent of the benefits**  
18 **realized by the actions taken under this chapter.**

19           **Sec. 8. The secretary may adopt rules under IC 4-22-2 to**  
20 **implement this chapter."**

21           Renumber all SECTIONS consecutively.  
(Reference is to HB 1414 as reprinted February 2, 2024.)