

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1141

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-18.5-10, AS AMENDED BY P.L.184-2016, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 10. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit to be used to fund:

- (1) community mental health centers under:
 - (A) IC 12-29-2-1.2, for only those civil taxing units that authorized financial assistance under IC 12-29-1 before 2002 for a community mental health center as long as the tax levy under this section does not exceed the levy authorized in 2002;
 - (B) IC 12-29-2-2 through ~~IC 12-29-2-5~~; **IC 12-29-2-4**; and
 - (C) IC 12-29-2-13; or
- (2) community intellectual disability and other developmental disabilities centers under IC 12-29-1-1.

(b) For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy described in subsection (a).

(c) This subsection applies to property taxes first due and payable after December 31, 2008. Notwithstanding subsections (a) and (b) or any other law, any property taxes imposed by a civil taxing unit that are exempted by this section from the ad valorem property tax levy limits

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imposed by section 3 of this chapter may not increase annually by a percentage greater than the result of:

- (1) the assessed value growth quotient determined under section 2 of this chapter; minus
- (2) one (1).

(d) Before July 15 of each year, the department of local government finance shall provide to each county an estimate of the maximum amount of property taxes imposed for community mental health centers or community intellectual disability and other developmental disabilities centers that are exempt from the levy limits for the ensuing year.

SECTION 2. IC 12-15-16-1, AS AMENDED BY P.L.123-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: 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 IC 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~~ **IC 12-29-2** after December 31, ~~2003~~; **2018**;

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.

SECTION 3. IC 12-15-18-5.1, AS AMENDED BY P.L.123-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: 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)~~ **IC 12-29-2** after December 31, 2003; **2018**; 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.

SECTION 4. IC 12-29-2-1, AS AMENDED BY P.L.99-2007, SECTION 150, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 1. This chapter applies only to the **state and local** 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.

SECTION 5. IC 12-29-2-2, AS AMENDED BY P.L.247-2017, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 2. (a) A county shall ~~fund~~ **provide funding for** 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: or, in the case of Marion County for calendar year 2019, calendar year 2020, and calendar year 2021, the amount determined under subsection (c).~~

(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 (+) center:

(b) Except as provided in subsection (c), the amount of funding under subsection (a) for taxes first due and payable in a calendar year is the result equal to:

(1) the county's maximum amount that could have been 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, as previously determined under this section by using the amount calculated under this section in 2004 as the base amount; appropriation amount for the operation of community mental health centers determined under this chapter in the previous calendar year; multiplied by

(2) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2. greater of:

(A) one (1); or

(B) the result of:

(i) the amount of the county's general fund property tax levy that was imposed in the previous calendar year, minus the amount of credits granted under IC 6-1.1-20.6 that were allocated to the county general fund in the previous calendar year; divided by

(ii) the amount of the county's general fund property tax levy that was imposed in the year preceding the previous calendar year, minus the amount of credits granted under IC 6-1.1-20.6 that were allocated to the county general fund in the year preceding the previous calendar year.

The department of local government finance shall verify the maximum appropriation calculation under this subsection as part of the certification of the county's budget under IC 6-1.1-17.

(c) This subsection applies only in calendar year 2019, calendar year 2020, and calendar year 2021. In the case of Marion County, the amount of funding under subsection (a) for a calendar year is determined under this subsection and is equal to the following:

(1) For calendar year 2019, the sum of:

(A) the actual amount of the appropriations by the county for community mental health centers under this chapter in 2018; plus

(B) the result of thirty-three percent (33%) multiplied by the result of:

(i) the amount that would have, except for the



application of this subsection, applied to the county under subsection (b) for calendar year 2019; minus
 (ii) the actual amount of the appropriations by the county for community mental health centers under this chapter in 2018.

- (2) For calendar year 2020, the sum of:
- (A) the actual amount of the appropriations by the county for community mental health centers under this chapter in 2019; plus
 - (B) the result of sixty-six percent (66%) multiplied by the result of:
 - (i) the amount that would have, except for the application of this subsection, applied to the county under subsection (b) for calendar year 2020; minus
 - (ii) the actual amount of the appropriations by the county for community mental health centers under this chapter in 2019.
- (3) For calendar year 2021, the amount that would have, except for the application of this subsection, applied to the county under subsection (b) for calendar year 2021.

The department of local government finance shall verify the maximum appropriation calculation under this subsection as part of the certification of the county's budget under IC 6-1.1-17. This subsection expires January 1, 2022.

(d) The funding provided by a county under this section shall be used solely for:

- (1) the operations of community mental health centers serving the county; or
- (2) contributing to the nonfederal share of medical assistance payments to community mental health centers serving the county.

(e) This subsection applies only to a county that provides a levy freeze in the county as provided in IC 6-3.6-11-1. 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 nonfederal 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 12(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 nonfederal 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 nonfederal share of funding under this program; and
 - (2) may next apply county funding received under this section to any remaining nonfederal 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 nonfederal 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.

SECTION 6. IC 12-29-2-3 IS REPEALED [EFFECTIVE JANUARY 1, 2019]. 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.

SECTION 7. IC 12-29-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: 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) **section 2(b) of this chapter or, in the case of Marion County for calendar year 2019, calendar year 2020, and calendar year 2021, the calculation under section 2(c) of this chapter** 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: **shall be apportioned according to the proportion of:**

- (1) the county's population residing in the primary service area of each center that is certified by the division of mental health and addiction to serve the county; to**
- (2) the total population of the county.**

(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:

SECTION 8. IC 12-29-2-5 IS REPEALED [EFFECTIVE JANUARY 1, 2019]. 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):

SECTION 9. IC 12-29-2-15, AS AMENDED BY P.L.123-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: 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~~, **member of a board of county commissioners (or the designee of the member of the board of county commissioners)** on the center's governing board. The member shall be selected by the **board of county fiscal body commissioners** of the county where the community mental health center maintains its corporate mailing address. The **member of the county fiscal body representative or board of county commissioners selected under this subsection (or the designee of a member of the board of county commissioners selected under this subsection)** 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~~, **member of a board of county commissioners (or the designee of the member of the board of county commissioners)** on the center's advisory board. The member shall be selected by the **board of county fiscal body commissioners** of the county where the community mental health center maintains its corporate mailing address. The **member of the county fiscal body representative or board of county commissioners selected under this subsection (or the designee of a member of the board of county commissioners selected under this subsection)** must reside in one (1) of the counties in the community mental health center's primary service area.

SECTION 10. IC 12-29-2-16, AS AMENDED BY P.L.123-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 16. **(a)** A community mental health center that is certified by the division of mental health and addiction shall provide an annual report **to the division of mental health and addiction and to the fiscal body and the board of county commissioners** of each county located in the community mental health center's primary service area. **The annual report under this section must include the following:**

(1) Information concerning the operational and community based activities undertaken during the year by the community mental health center in each county from which the community mental health center received funding under this chapter.

(2) A listing, by the county of patients' residence, of the following information:

(A) The total number of patients served by the community mental health center.

(B) The total number of patients receiving addiction treatment services from the community mental health center.

(C) The total number of patients receiving mental health services from the community mental health center.

(D) The total number of patients receiving both addiction treatment services and mental health services from the community mental health center.

(3) A copy of the most recent financial audit provided to the division of mental health and addiction under 440 IAC 4.1-2-5, including a balance sheet of assets and liabilities, which shall be prepared by an independent certified public



accountant.

(b) The division of mental health and addiction shall:

(1) specify the format of the annual reports that must be provided by community mental health centers under subsection (a); and

(2) include a summary of that information in the annual report prepared by the division under subsection (c).

(c) The division of mental health and addiction shall annually provide to the county fiscal body and board of county commissioners of each county a report that includes the following:

(1) An overview of the total funding provided to all community mental health centers during the year under this chapter, including funding provided by the division for purposes of programs under this chapter.

(2) A count, by county of residence, of the following concerning patients served by the community mental health centers under programs funded under this chapter:

(A) The total number of patients served.

(B) The total number of patients receiving addiction treatment services.

(C) The total number of patients receiving mental health services.

(D) The total number of patients receiving both addiction treatment services and mental health services.

(3) An assessment, specified by the county of patients' residence, of the overall outcomes of the treatment provided to patients of the community mental health centers.

(4) A summary of the information provided by community mental health centers in the annual reports provided under subsection (a), and an explanation of the differences between the patient count information provided by the community mental health centers in those reports and the patient count information included in the division's report under this subsection.

(d) The division of mental health and addiction may provide a report required under subsection (c) to the county fiscal body and the board of county commissioners by publishing the report on the division's Internet web site.

SECTION 11. IC 12-29-2-20, AS AMENDED BY P.L.123-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: 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)~~ **(a) Unless otherwise agreed to by the county and the community mental health center,** 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 **at least as frequently as provided** 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)~~ **(b)** 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)~~ **(c)** Payments by the county fiscal body

~~(1)~~ must be in the amounts:

~~(A)~~ **(1)** determined by sections 2 through 5 4 of this chapter; and

~~(B)~~ **(2)** 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.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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