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. 1220

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-12-2-3, AS AMENDED BY P.L.68-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) The commission consists of at least ~~eighteen (18)~~ **nineteen (19)** members appointed by the governor as follows:

(1) At least one (1) representative of a statewide consumer organization of people with disabilities.

(2) At least one (1) representative of a statewide organization that advocates for people with intellectual and other developmental disabilities.

(3) At least one (1) representative of a statewide organization that advocates for people with a diagnosis of a mental illness or addiction.

(4) At least one (1) member representing current or former applicants for or recipients of vocational rehabilitation services.

(5) The chairperson of the statewide Independent Living Council or the chairperson's designee.

(6) At least one (1) representative of a parent training and information center established by the individuals with disabilities education act.

(7) The director of the client assistance program administered by the Indiana protection and advocacy services commission under IC 12-28-1-12, or a representative recommended by the director

of the client assistance program.

(8) At least one (1) representative of community rehabilitation program service providers.

(9) Four (4) representatives of business, industry, and labor.

(10) The director of the rehabilitation services bureau who serves as an ex officio nonvoting member.

(11) A vocational rehabilitation counselor shall serve as a nonvoting member.

(12) A representative of a local workforce development board.

(13) A representative of the department of education.

(14) At least one (1) member who is a representative of the division of mental health and addiction who serves as a nonvoting member.

(15) At least one (1) member who is a representative of the bureau of developmental disabilities services who serves as a nonvoting member.

(16) At least one (1) representative representing a trade association of providers that deliver services to people with intellectual and other developmental disabilities.

(b) Not more than nine (9) 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 rehabilitation services bureau.

SECTION 2. IC 12-15-33-3, AS AMENDED BY P.L.35-2016, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: 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.
(T) Indiana Academy of Physician Assistants.
(U) Indiana Association of Rehabilitation Facilities.

(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.

SECTION 3. IC 12-15-34-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: 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) a hospital;

(B) a health facility; ~~or~~

(C) a rehabilitation center; ~~and~~ **or**

(D) other appropriate locations outside of the home, as determined by the office; 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).

SECTION 4. IC 12-15-35-20, AS AMENDED BY P.L.152-2017, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: 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 a managed care organization.

(6) One (1) individual ~~who is a health economist.~~ **with expertise in health economics.**

SECTION 5. IC 12-15-35-42 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2018]: 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.~~ **at least once each calendar quarter.**

SECTION 6. IC 12-15-44.5-4.9, AS ADDED BY P.L.30-2016, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4.9. (a) An individual who is approved to participate in the plan is eligible for a twelve (12) month plan period if the individual continues to meet the plan requirements specified in this chapter.

(b) If an individual chooses to renew participation in the plan, the individual is subject to an annual renewal process at the end of the benefit period to determine continued eligibility for participating in the plan. If the individual does not complete the renewal process, the individual may not reenroll in the plan for at least six (6) months.

(c) This subsection applies to participants who consistently made the required payments in the individual's health care account. If the individual receives the qualified preventative services recommended to the individual during the year, the individual is eligible to have the individual's unused share of the individual's health care account at the end of the plan period, determined by the office, matched by the state and carried over to the subsequent plan period to reduce the individual's required payments. If the individual did not, during the plan period, receive all qualified preventative services recommended to the individual, only the nonstate contribution to the health care account may be used to reduce the individual's payments for the subsequent plan period.

(d) For individuals participating in the plan who, in the past, did not make consistent payments into the individual's health care account while participating in the plan, but:

(1) had a balance remaining in the individual's health care account; and

(2) received all of the required preventative care services;

the office may elect to offer a discount on the individual's required payments to the individual's health care account for the subsequent benefit year. The amount of the discount under this subsection must be related to the percentage of the health care account balance at the end of the plan year but not to exceed a fifty percent (50%) discount of the required contribution.

(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 one hundred twenty (120) days after the last date of ~~participation in the plan,~~ **the plan benefit period,** 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 SIX of subsection (f).

The office may charge a penalty for any voluntary withdrawals from the health care account by the individual before the end of the plan benefit year. The individual may receive the amount determined under STEP SIX 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 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: Subtract any nonpayments of a required payment.

STEP SIX: Multiply the amount determined under STEP FIVE by at least seventy-five hundredths (0.75).

SECTION 7. IC 12-15-44.5-5.7, AS ADDED BY P.L.30-2016, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5.7. 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 and paying a copayment for the services of at least eight dollars ($8) for the ~~first~~ nonemergency use of a hospital emergency department. ~~and at least a twenty-five dollar ($25) copayment for any subsequent nonemergency use of a hospital emergency department during the benefit period.~~ 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.

SECTION 8. IC 12-23-19-4, AS ADDED BY P.L.209-2015, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) As used in this section, "account" refers to the mental health and addiction forensic treatment services account established by subsection (b).

(b) The mental health and addiction forensic treatment services account is established for the purpose of providing grants **and** vouchers and for leveraging federal funds for the provision of mental health and addiction forensic treatment services. The account shall be administered by the division. The division may use money in the account only to fund grants and vouchers under this chapter that are provided to the following:

(1) Community corrections programs.

(2) Court administered programs.

(3) Probation and diversion programs.

(4) Community mental health centers.

(5) Certified or licensed mental health or addiction providers.

(c) The account consists of:

(1) appropriations made by the general assembly;

(2) grants; and

(3) gifts and bequests.

(d) The expenses of administering the account shall be paid from money in the account.

(e) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(f) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(g) Money deposited in the account may be used as the required state match under the Medicaid ~~rehabilitation~~ program. ~~and the~~

~~Behavioral and Primary Health Coordination program under Section 1915(i) of the Social Security Act.~~

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____