

# HOUSE BILL No. 1513

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-21.5-3-6; IC 12-7-2-24; IC 12-9; IC 12-11-1.1-1; IC 12-12-2-3; IC 12-15; IC 31-37-26-6.

**Synopsis:** FSSA matters. Changes the name of the bureau of developmental disabilities services to the bureau of disabilities services. Repeals Medicaid copayment provisions that: (1) require the office of the secretary of family and social services (office) to apply a copayment for certain Medicaid services; (2) require a recipient to make a copayment upon the receipt of services and for a provider not to voluntarily waive a copayment; (3) set forth exemptions from copayment requirements; and (4) require the provider to charge the maximum allowable copayment. Allows for an enrollment fee, a premium, or a similar charge to be imposed as a condition of an individual's eligibility for the healthy Indiana plan. Removes a prohibition on the office from: (1) requiring certain providers to submit non-Medicaid revenue information in the provider's annual historical financial report; and (2) only requesting balance sheets from certain providers that apply directly to the provider's facility. Allows the office to implement an end of therapy reclassification methodology in a successor of the RUG-IV, 48-Group model for payment of nursing facility services.

**Effective:** July 1, 2023.

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January 19, 2023, read first time and referred to Committee on Public Health.

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First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

# HOUSE BILL No. 1513

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 4-21.5-3-6, AS AMENDED BY P.L.35-2016,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2023]: Sec. 6. (a) Notice shall be given under this section  
4 concerning the following:

- 5 (1) A safety order under IC 22-8-1.1.
- 6 (2) Any order that:
  - 7 (A) imposes a sanction on a person or terminates a legal right,
  - 8 duty, privilege, immunity, or other legal interest of a person;
  - 9 (B) is not described in section 4 or 5 of this chapter or
  - 10 IC 4-21.5-4; and
  - 11 (C) by statute becomes effective without a proceeding under
  - 12 this chapter if there is no request for a review of the order
  - 13 within a specified period after the order is issued or served.
- 14 (3) A notice of program reimbursement or equivalent
- 15 determination or other notice regarding a hospital's
- 16 reimbursement issued by the office of Medicaid policy and
- 17 planning or by a contractor of the office of Medicaid policy and



1 planning regarding a hospital's year end cost settlement.

2 (4) A determination of audit findings or an equivalent  
3 determination by the office of Medicaid policy and planning or by  
4 a contractor of the office of Medicaid policy and planning arising  
5 from a Medicaid postpayment or concurrent audit of a hospital's  
6 Medicaid claims.

7 (5) A license suspension or revocation under:

8 (A) IC 24-4.4-2;

9 (B) IC 24-4.5-3;

10 (C) IC 28-1-29;

11 (D) IC 28-7-5;

12 (E) IC 28-8-4; or

13 (F) IC 28-8-5.

14 (6) An order issued by the secretary or the secretary's designee  
15 against providers regulated by the division of aging or the bureau  
16 of ~~developmental~~ disabilities services and not licensed by the  
17 state **Indiana** department of health under IC 16-27 or IC 16-28.

18 (b) When an agency issues an order described by subsection (a), the  
19 agency shall give notice to the following persons:

20 (1) Each person to whom the order is specifically directed.

21 (2) Each person to whom a law requires notice to be given.

22 A person who is entitled to notice under this subsection is not a party  
23 to any proceeding resulting from the grant of a petition for review  
24 under section 7 of this chapter unless the person is designated as a  
25 party in the record of the proceeding.

26 (c) The notice must include the following:

27 (1) A brief description of the order.

28 (2) A brief explanation of the available procedures and the time  
29 limit for seeking administrative review of the order under section  
30 7 of this chapter.

31 (3) Any other information required by law.

32 (d) An order described in subsection (a) is effective fifteen (15) days  
33 after the order is served, unless a statute other than this article specifies  
34 a different date or the agency specifies a later date in its order. This  
35 subsection does not preclude an agency from issuing, under  
36 IC 4-21.5-4, an emergency or other temporary order concerning the  
37 subject of an order described in subsection (a).

38 (e) If a petition for review of an order described in subsection (a) is  
39 filed within the period set by section 7 of this chapter and a petition for  
40 stay of effectiveness of the order is filed by a party or another person  
41 who has a pending petition for intervention in the proceeding, an  
42 administrative law judge shall, as soon as practicable, conduct a



1 preliminary hearing to determine whether the order should be stayed in  
 2 whole or in part. The burden of proof in the preliminary hearing is on  
 3 the person seeking the stay. The administrative law judge may stay the  
 4 order in whole or in part. The order concerning the stay may be issued  
 5 after an order described in subsection (a) becomes effective. The  
 6 resulting order concerning the stay shall be served on the parties and  
 7 any person who has a pending petition for intervention in the  
 8 proceeding. It must include a statement of the facts and law on which  
 9 it is based.

10 SECTION 2. IC 12-7-2-24, AS AMENDED BY P.L.74-2022,  
 11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2023]: Sec. 24. "Bureau" means the following:

- 13 (1) For purposes of IC 12-10, the bureau of aging and in-home  
 14 services established by IC 12-10-1-1.
- 15 (2) For purposes of IC 12-11, the bureau of ~~developmental~~  
 16 disabilities services established by IC 12-11-1.1-1.
- 17 (3) For purposes of IC 12-12, the rehabilitation services bureau of  
 18 the division of disability and rehabilitative services established by  
 19 IC 12-12-1-1.

20 SECTION 3. IC 12-9-1-3, AS AMENDED BY P.L.74-2022,  
 21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2023]: Sec. 3. The division consists of the following bureaus:

- 23 (1) The rehabilitation services bureau established by  
 24 IC 12-12-1-1.
- 25 (2) The bureau of ~~developmental~~ disabilities services established  
 26 by IC 12-11-1.1-1.
- 27 (3) The bureau of child development services established by  
 28 IC 12-12.7-1-1.

29 SECTION 4. IC 12-9-4-3, AS AMENDED BY P.L.143-2022,  
 30 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2023]: Sec. 3. The council consists of the following sixteen  
 32 (16) members:

- 33 (1) The director.
- 34 (2) An individual representing The Arc of Indiana, appointed by  
 35 The Arc of Indiana.
- 36 (3) An individual representing the Indiana Association of  
 37 Rehabilitation Facilities (INARF), appointed by INARF.
- 38 (4) An individual representing the Self-Advocates of Indiana,  
 39 appointed by the Self-Advocates of Indiana.
- 40 (5) A representative of the governor's council for people with  
 41 disabilities established by IC 4-23-29-7, appointed by the director.
- 42 (6) A representative of a case management provider contracting



1 with the bureau of ~~developmental~~ disabilities services established  
 2 by IC 12-11-1.1-1 to provide family supports Medicaid waiver  
 3 and community integration habilitation Medicaid waiver case  
 4 management services, appointed by the director.

5 (7) An individual representing the Indiana Association of  
 6 Behavior Consultants, appointed by the Indiana Association of  
 7 Behavior Consultants.

8 (8) An individual representing the Indiana Institute on Disability  
 9 and Community, appointed by the Indiana Institute on Disability  
 10 and Community.

11 (9) An individual representing the Indiana Resource Center for  
 12 Families with Special Needs (INSOURCE), appointed by  
 13 INSOURCE.

14 (10) An individual representing Indiana Disability Rights,  
 15 appointed by Indiana Disability Rights.

16 (11) An individual representing Indiana Family to Family,  
 17 appointed by Indiana Family to Family.

18 (12) Two (2) members, appointed by the director, each of whom  
 19 is an individual with an intellectual or other developmental  
 20 disability.

21 (13) Two (2) members, appointed by the director, each of whom  
 22 is an immediate or extended family member of an individual with  
 23 an intellectual or other developmental disability.

24 (14) One (1) member, appointed by the director, who is employed  
 25 by an agency that provides services to people with intellectual or  
 26 other developmental disabilities.

27 SECTION 5. IC 12-11-1.1-1, AS AMENDED BY P.L.74-2022,  
 28 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2023]: Sec. 1. (a) The bureau of ~~developmental~~ disabilities  
 30 services is established within the division.

31 (b) The bureau shall plan, coordinate, and administer the provision  
 32 of individualized, integrated community based services for individuals  
 33 with a developmental disability and their families, within the limits of  
 34 available resources. The planning and delivery of services must be  
 35 based on future plans of the individual with a developmental disability  
 36 rather than on traditional determinations of eligibility for discrete  
 37 services, with an emphasis on the preferences of the individual with a  
 38 developmental disability and that individual's family.

39 (c) Services for individuals with a developmental disability must be  
 40 services that meet the following conditions:

41 (1) Are provided under public supervision.

42 (2) Are designed to meet the developmental needs of individuals



1 with a developmental disability.

2 (3) Meet all required state and federal standards.

3 (4) Are provided by qualified personnel.

4 (5) To the extent appropriate, are provided in home and  
5 community based settings in which individuals without  
6 disabilities participate.

7 (6) Are provided in conformity with a service plan developed  
8 under IC 12-11-2.1-2.

9 (d) The bureau shall approve entities to provide community based  
10 services and supports as follows:

11 (1) ~~Beginning July 1, 2011,~~ The bureau shall ensure that an entity  
12 approved to provide day services, identified day habilitation,  
13 including facility based or community based habilitation,  
14 prevocational services, or employment services under home and  
15 community based services waivers is accredited by an approved  
16 national accrediting body described in subsection (j).

17 (2) ~~Beginning July 1, 2012,~~ The bureau shall ensure that an entity  
18 approved to provide residential habilitation and support services  
19 under home and community based services waivers is accredited  
20 by an approved national accrediting body. ~~However, if an entity~~  
21 ~~is accredited to provide home and community based services~~  
22 ~~under subdivision (1) other than residential habilitation and~~  
23 ~~support services, the bureau may extend the time that the entity~~  
24 ~~has to comply with this subdivision until the earlier of the~~  
25 ~~following:~~

26 (A) ~~The completion of the entity's next scheduled accreditation~~  
27 ~~survey.~~

28 (B) ~~July 1, 2015.~~

29 (e) Subject to subsection (k), the bureau shall initially approve,  
30 reapprove, and monitor community based residential, habilitation, and  
31 employment service providers that provide alternatives to placement of  
32 individuals with a developmental disability in state institutions and  
33 health facilities licensed under IC 16-28 for individuals with a  
34 developmental disability. The services must simulate, to the extent  
35 feasible, patterns and conditions of everyday life that are as close as  
36 possible to the conditions in which individuals without disabilities  
37 participate. The community based service categories include the  
38 following:

39 (1) Supervised group living programs, which serve at least four  
40 (4) individuals and not more than eight (8) individuals, are funded  
41 by Medicaid, and are licensed by the division.

42 (2) Supported living service arrangements to meet the unique



1 needs of individuals in integrated settings. Supported living  
 2 service arrangements providing residential services may not serve  
 3 more than four (4) unrelated individuals in any one (1) setting.

4 However, a program that:

5 (A) is in existence on January 1, 2013, as a supervised group  
 6 living program described in subdivision (1); and

7 (B) has more than four (4) individuals residing as part of the  
 8 program;

9 may convert to a supported living service arrangement under this  
 10 subdivision and continue to provide services to up to the same  
 11 number of individuals in the supported living setting.

12 (f) To the extent that services described in subsection (e) are  
 13 available and meet the individual's needs, an individual is entitled to  
 14 receive services in the least restrictive environment possible.

15 (g) Community based services under subsection (e)(1) or (e)(2)  
 16 must consider the needs of and provide choices and options for:

17 (1) individuals with a developmental disability; and

18 (2) families of individuals with a developmental disability.

19 (h) The bureau shall administer a system of service coordination to  
 20 carry out this chapter.

21 (i) The bureau may issue orders under IC 4-21.5-3-6 against a  
 22 provider that violates rules issued by the bureau for programs in which  
 23 the provider is providing services in accordance with section 11 of this  
 24 chapter.

25 (j) For purposes of subsections (d) and (k), "approved national  
 26 accrediting body" means any of the following:

27 (1) The Commission on Accreditation of Rehabilitation Facilities  
 28 (CARF), or its successor.

29 (2) The Council on Quality and Leadership In Supports for People  
 30 with Disabilities, or its successor.

31 (3) The Joint Commission on Accreditation of Healthcare  
 32 Organizations (JCAHO), or its successor.

33 (4) The ISO-9001 human services QA system.

34 (5) The Council on Accreditation, or its successor.

35 (6) An independent national accreditation organization approved  
 36 by the secretary.

37 (k) An entity that is accredited by an approved national accrediting  
 38 body is not subject to reapproval surveys or routine monitoring surveys  
 39 by the division or bureau, including any reapproval survey under a  
 40 home and community based services waiver. However, the bureau may  
 41 perform validation surveys and complaint investigations of an entity  
 42 accredited by an approved national accrediting body.



- 1 (l) The bureau shall monitor services provided by the following:  
 2 (1) An entity that provides services to an individual with funds  
 3 provided by the bureau or under the authority of the bureau.  
 4 (2) An entity that has entered into a provider agreement under  
 5 IC 12-15-11 to provide Medicaid in-home waiver services.  
 6 (m) The bureau shall establish and administer a complaint process  
 7 for the following:  
 8 (1) An individual who receives services from an entity with funds  
 9 provided through the bureau or under the authority of the bureau.  
 10 (2) An entity that has entered into a provider agreement under  
 11 IC 12-15-11 to provide Medicaid in-home waiver services.  
 12 SECTION 6. IC 12-12-2-3, AS AMENDED BY P.L.114-2018,  
 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2023]: Sec. 3. (a) The commission consists of at least nineteen  
 15 (19) members appointed by the governor as follows:  
 16 (1) At least one (1) representative of a statewide consumer  
 17 organization of people with disabilities.  
 18 (2) At least one (1) representative of a statewide organization that  
 19 advocates for people with intellectual and other developmental  
 20 disabilities.  
 21 (3) At least one (1) representative of a statewide organization that  
 22 advocates for people with a diagnosis of a mental illness or  
 23 addiction.  
 24 (4) At least one (1) member representing current or former  
 25 applicants for or recipients of vocational rehabilitation services.  
 26 (5) The chairperson of the statewide Independent Living Council  
 27 or the chairperson's designee.  
 28 (6) At least one (1) representative of a parent training and  
 29 information center established by the individuals with disabilities  
 30 education act.  
 31 (7) The director of the client assistance program administered by  
 32 the Indiana protection and advocacy services commission under  
 33 IC 12-28-1-12, or a representative recommended by the director  
 34 of the client assistance program.  
 35 (8) At least one (1) representative of community rehabilitation  
 36 program service providers.  
 37 (9) Four (4) representatives of business, industry, and labor.  
 38 (10) The director of the rehabilitation services bureau who serves  
 39 as an ex officio nonvoting member.  
 40 (11) A vocational rehabilitation counselor shall serve as a  
 41 nonvoting member.  
 42 (12) A representative of a local workforce development board.





1 (13) A representative of the department of education.

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

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

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

11 (b) Not more than nine (9) members of the commission may be from  
12 the same political party.

13 (c) At least fifty-one percent (51%) of the commission must be  
14 persons with disabilities who are not employees of the rehabilitation  
15 services bureau.

16 SECTION 7. IC 12-15-6-1 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. Except as provided  
18 in section 2 of this chapter, and beginning July 1, 2002, except as  
19 provided in IC 12-15-41 and IC 12-15-44.5, an enrollment fee, a  
20 premium, or a similar charge may not be imposed as a condition of an  
21 individual's eligibility for Medicaid.

22 SECTION 8. IC 12-15-6-2 IS REPEALED [EFFECTIVE JULY 1,  
23 2023]. Sec. 2. The office shall apply a copayment for certain types of  
24 Medicaid:

25 SECTION 9. IC 12-15-6-3 IS REPEALED [EFFECTIVE JULY 1,  
26 2023]. Sec. 3: (a) A copayment shall be made by the recipient of  
27 Medicaid upon receipt of assistance. If a recipient of Medicaid does not  
28 make the copayment, the office may not require the provider to collect  
29 the copayment. However, a provider may not voluntarily waive the  
30 copayment by the recipient under this section.

31 (b) The office may adopt rules under IC 4-22-2 to prescribe that the  
32 copayment amount is not deducted from the reimbursement to the  
33 provider for services provided by the provider if a recipient of  
34 Medicaid does not make the copayment.

35 SECTION 10. IC 12-15-6-4 IS REPEALED [EFFECTIVE JULY 1,  
36 2023]. Sec. 4. A copayment applies to all services except the following:

37 (1) Services furnished to individuals less than eighteen (18) years  
38 of age.

39 (2) Services furnished to pregnant women if the services relate to  
40 the pregnancy or to any other medical condition that might  
41 complicate the pregnancy.

42 (3) Emergency services as defined by regulations adopted by the



1 Secretary of the United States Department of Health and Human  
2 Services:

3 ~~(4) Family planning services and supplies described in 42 U.S.C.~~  
4 ~~1396d(a)(4)(C).~~

5 ~~(5) Physical examinations to determine the need for medical~~  
6 ~~services.~~

7 SECTION 11. IC 12-15-6-5 IS REPEALED [EFFECTIVE JULY 1,  
8 2023]. Sec. 5: A provider shall charge the maximum copayment  
9 allowable under federal statute or regulation.

10 SECTION 12. IC 12-15-14-2 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) Payment of  
12 nursing facility services shall be determined in accordance with 42  
13 U.S.C. 1396a(a)(13)(A) and any other applicable federal statutes or  
14 regulations governing such payments.

15 ~~(b) The office may not require a provider to submit non-Medicaid~~  
16 ~~revenue information in the provider's annual historical financial report.~~  
17 ~~Non-Medicaid revenue information obtained by Medicaid auditors in~~  
18 ~~the course of their audits may not be used for public reporting~~  
19 ~~purposes.~~

20 ~~(c) The office may only request complete balance sheet data that~~  
21 ~~applies directly to the provider's facility. Complete balance sheet data~~  
22 ~~acquired by the office under this subsection:~~

23 ~~(1) is confidential; and~~

24 ~~(2) may only be disclosed:~~

25 ~~(A) in the aggregate; or~~

26 ~~(B) for an individual facility;~~

27 ~~if the office removes all non-Medicaid data.~~

28 ~~(d) (b) The office of the secretary shall adopt rules under IC 4-22-2~~  
29 ~~to implement the reimbursement system required by this section.~~

30 SECTION 13. IC 12-15-14-8, AS AMENDED BY P.L.165-2021,  
31 SECTION 140, IS AMENDED TO READ AS FOLLOWS  
32 [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) ~~Beginning July 1, 2018,~~ The  
33 office may implement an end of therapy reclassification methodology  
34 in the RUG-IV, 48-Group model **or its successor** for payment of  
35 nursing facility services.

36 (b) Before the office changes a health facility service reimbursement  
37 that results in a reduction in reimbursement, the office shall provide  
38 public notice of at least one (1) year. The public notice under this  
39 subsection:

40 (1) is not a rulemaking action or part of the administrative  
41 rulemaking process under IC 4-22; and

42 (2) must include the fiscal impact of the proposed reimbursement



- 1 change.
- 2 SECTION 14. IC 31-37-26-6, AS ADDED BY P.L.157-2021,  
 3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4 JULY 1, 2023]: Sec. 6. (a) If the court determines that the juvenile is  
 5 competent, the court shall proceed with the delinquency proceedings  
 6 as provided by law. No statement that a child makes during an  
 7 evaluation or hearing conducted under this chapter may be used against  
 8 the child in any juvenile or adult proceeding.
- 9 (b) If the court determines that the juvenile is not competent, the  
 10 court shall determine whether the child may attain competency within:  
 11 (1) one hundred eighty (180) days, if the child is alleged to have  
 12 committed an act that would be a felony if committed by an adult;  
 13 or  
 14 (2) ninety (90) days, if the child is alleged to have committed an  
 15 act that would not be a felony if committed by an adult.
- 16 (c) If the court determines that the juvenile is not competent and  
 17 will not attain competency within the relevant time periods as  
 18 described in subsection (b), the court shall:  
 19 (1) dismiss the allegations without prejudice; or  
 20 (2) delay dismissing the allegations for not more than ninety (90)  
 21 days and:  
 22 (A) refer the matter to the department and request that the  
 23 department determine whether the child may be a child in need  
 24 of services; or  
 25 (B) order a probation officer to:  
 26 (i) refer the child or the child's family to an entity certified  
 27 or licensed by the division of mental health and addiction, or  
 28 the bureau of ~~developmental~~ disabilities services; or  
 29 (ii) otherwise secure services to reduce the potential that the  
 30 child will engage in behavior that could result in delinquent  
 31 child or other criminal charges.
- 32 If the court determines that the options described in subdivisions (1)  
 33 and (2) are not in the best interests of the child, the court may, if it  
 34 appears to the court that a child is mentally ill, refer the matter to the  
 35 court having probate jurisdiction for civil commitment proceedings  
 36 under IC 12-26 or initiate a civil commitment proceeding under  
 37 IC 12-26.
- 38 (d) If the court determines that the juvenile is not competent but is  
 39 reasonably likely to attain competency within the relevant time periods  
 40 as described in subsection (b), the court may order the child to  
 41 participate in services, other than a state institution, specifically  
 42 designed to help the child attain competency, to be paid by the



1 department subject to the requirements described in IC 31-37. If the  
 2 court orders the child to receive competency attainment services, the  
 3 court shall:

- 4 (1) identify a qualified provider to deliver the competency  
 5 attainment services; and  
 6 (2) order a probation officer to contact that provider by a specified  
 7 date to arrange for services.

8 (e) Not later than ten (10) days after the court identifies the qualified  
 9 competency attainment services provider as described in subsection  
 10 (d), the court shall transmit to the provider a copy of each competency  
 11 assessment report it has received for review. The provider shall return  
 12 the copies of the reports to the court upon the termination of the  
 13 services.

14 (f) Not later than thirty (30) days after the probation officer contacts  
 15 the competency attainment services provider under subsection (d), the  
 16 provider shall submit to the court a competency attainment plan for the  
 17 court's approval. If the court approves the plan, the court shall provide  
 18 copies of the plan to the prosecuting attorney, the child's attorney, the  
 19 child's guardian ad litem, if any, and the child's parents, guardian, or  
 20 custodian.

21 (g) Competency attainment services provided to a child are subject  
 22 to the following conditions and time periods measured from the date  
 23 the court approves the plan:

24 (1) Services shall be provided in the least restrictive setting that  
 25 is consistent with the child's ability to attain competency, and the  
 26 safety of both the child and the community. If the child has been  
 27 released on a temporary or interim order and refuses or fails to  
 28 cooperate with the provider, the court may reassess the order and  
 29 amend it to require a more appropriate setting.

30 (2) No child may be required to participate in competency  
 31 attainment services for longer than is required for the child to  
 32 attain competency. In addition, if a child is:

33 (A) in a nonresidential setting, the child may not be required  
 34 to participate for more than:

35 (i) ninety (90) days if the child is charged with an act that  
 36 would not be a felony if committed by an adult; or

37 (ii) one hundred eighty (180) days if the child is charged  
 38 with an act that would be a felony or murder if committed by  
 39 an adult;

40 (B) in a residential setting that is operated solely or in part for  
 41 the purpose of providing competency attainment services, the  
 42 child may not be ordered to participate for more than:



- 1 (i) forty-five (45) days if the child is charged with an act that  
 2 would not be a felony if committed by an adult;  
 3 (ii) ninety (90) days if the child is charged with an act that  
 4 would be a Level 4, Level 5, or Level 6 felony if committed  
 5 by an adult; or  
 6 (iii) one hundred eighty (180) days if the child is charged  
 7 with an act that would be murder or a Level 1, Level 2, or  
 8 Level 3 felony if committed by an adult; and  
 9 (C) in a residential, detention, or other secured setting where  
 10 the child has been placed for reasons other than to participate  
 11 in competency attainment services, but where the child is also  
 12 ordered to participate in competency attainment services, the  
 13 child may not be required to participate for more than:  
 14 (i) ninety (90) days if the child is charged with an act that  
 15 would not be a felony if committed by an adult; or  
 16 (ii) one hundred eighty (180) days if the child is charged  
 17 with an act that would be a felony or murder if committed by  
 18 an adult.
- 19 (h) The provider that provides the child's competency attainment  
 20 services shall submit reports to the court as follows:
- 21 (1) The provider shall report on the child's progress every thirty  
 22 (30) days, and upon the termination of services. The report may  
 23 not include any details of the alleged offense as reported by the  
 24 child.
- 25 (2) If the provider determines that the current setting is no longer  
 26 the least restrictive setting that is consistent with the child's ability  
 27 to attain competency and the safety of both the child and the  
 28 community, the provider shall report this to the court within three  
 29 (3) days of the determination.
- 30 (3) If the provider determines that the child has achieved the goals  
 31 of the plan and is able to understand the nature and objectives of  
 32 the proceeding against the child and to assist in the child's  
 33 defense, with or without reasonable accommodations, the  
 34 provider shall issue a report informing the court of that  
 35 determination within three (3) days of the determination. If the  
 36 provider believes that accommodations are necessary or desirable,  
 37 the report shall include recommendations for accommodations.
- 38 (4) If the provider determines that the child will not achieve the  
 39 goals of the plan within the applicable period of time under this  
 40 section, the provider shall issue a report informing the court of the  
 41 determination within three (3) days of the determination. The  
 42 report shall include recommendations for services for the child



- 1 that would support the safety of the child or the community.
- 2 (i) The court shall provide a copy of any report received under  
3 subsection (h) to the following:
- 4 (1) The prosecuting attorney.
- 5 (2) The attorney representing the child.
- 6 (3) The child's guardian ad litem, if any.
- 7 (4) The child's parent, guardian, or custodian, unless the court  
8 finds that providing a copy of the report is not in the best interests  
9 of the child.
- 10 (j) Not later than fifteen (15) days after receiving a report under  
11 subsection (h), the court may hold a hearing to determine if it should  
12 issue a new order. The court may order a new competency evaluation  
13 if the court believes that it may assist the court in making its  
14 determination. The child shall continue to participate in competency  
15 attainment services until a new order is issued or the required period of  
16 participation ends.
- 17 (k) If, following a hearing held under subsection (j), the court  
18 determines that the child has not or will not attain competency within  
19 the relevant period of time under subsection (g), the court shall:
- 20 (1) dismiss the allegations without prejudice; or
- 21 (2) delay dismissing the allegations for not more than ninety (90)  
22 days and:
- 23 (A) refer the matter to the department and request that the  
24 department determine whether the child may be a child in need  
25 of services; or
- 26 (B) order a probation officer to:
- 27 (i) refer the child or the child's family to an entity certified  
28 or licensed by the division of mental health and addiction, or  
29 the bureau of developmental disabilities services; or
- 30 (ii) otherwise secure services to reduce the potential that the  
31 child will engage in behavior that could result in delinquent  
32 child or other criminal charges.
- 33 If the court determines that the options described in subdivision (1) or  
34 (2) are not in the best interests of the child, the court may, if it appears  
35 to the court that a child is mentally ill, refer the matter to the court  
36 having probate jurisdiction for civil commitment proceedings under  
37 IC 12-26 or initiate a civil commitment proceeding under IC 12-26.
- 38 (l) If, following a hearing held under subsection (j), the court  
39 determines that the child is competent, the court shall proceed with the  
40 delinquency proceedings as described in subsection (a).
- 41 (m) Allegations dismissed under subsections (c) and (k) do not  
42 preclude:



- 1 (1) a future proceeding against the child if the child eventually
- 2 attains competency; or
- 3 (2) a civil action against the child based on the conduct that
- 4 formed the basis of the allegations against the child.
- 5 (n) A referral made under subsection (c) or (k) does not establish an
- 6 obligation on the division of mental health and addiction, a state
- 7 institution, or the bureau of developmental disabilities services to
- 8 provide services to a referred child.
- 9 (o) Proceedings under this chapter do not toll the time limits under
- 10 IC 31-37-11-5.
- 11 SECTION 15. [EFFECTIVE JULY 1, 2023] **(a) The publisher of**
- 12 **the Indiana Administrative Code shall change any reference in the**
- 13 **Indiana Administrative Code of the bureau of developmental**
- 14 **disabilities services to the bureau of disabilities services.**
- 15 **(b) This SECTION expires December 31, 2023.**

