



February 16, 2021

SENATE BILL No. 261

DIGEST OF SB 261 (Updated February 10, 2021 1:58 pm - DI 137)

Citations Affected: IC 12-15; IC 16-39.

Synopsis: Long term care insurance partnership program. Requires the office of the secretary of family and social services to apply before December 31, 2021, for a Medicaid state plan amendment to effectuate the federal long term care insurance partnership program (program). Requires the state plan amendment for the program to provide that the asset disregard for all policies entered into under the state's current long term insurance program will remain the same. Provides administrative, reporting, and continuing education requirements for the program. Requires a provider to provide health records upon request not more than 30 days after receiving the written request, unless the provider: (1) requests an extension of not more than 30 days in the initial 30 days; and (2) provides written notice to the patient of the reasons for the extension and the date by which the provider will provide the health records. Authorizes the state department of health to impose a civil penalty of not more than \$5,000 per violation on a provider that violates the requirement to provide health records upon request.

Effective: July 1, 2021.

Walker G, Grooms

January 11, 2021, read first time and referred to Committee on Insurance and Financial Institutions.

February 15, 2021, amended, reported favorably — Do Pass.

SB 261—LS 7188/DI 137



February 16, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 261

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 12-15-1.3-22 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2021]: **Sec. 22. (a) Before December 31, 2021,**
4 **the office must apply to the United States Department of Health**
5 **and Human Services for a state plan amendment that:**

6 (1) **establishes the long term insurance care partnership as**
7 **described in IC 12-15-39.8; and**

8 (2) **provides that the asset disregard for all qualified long term**
9 **care policies entered into under IC 12-15-39.6 will remain the**
10 **same.**

11 (b) **If the office receives approval for a state plan amendment**
12 **that meets the requirements of subsection (a), the office must file**
13 **an affidavit with the governor attesting that the state plan**
14 **amendment applied for under this section is in effect. The office**
15 **must file the affidavit under this subsection not later than five (5)**
16 **days after the office is notified that the state plan amendment is**
17 **approved.**

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(c) The office shall implement the state plan amendment not more than sixty (60) days after the governor receives the affidavit under subsection (b).

SECTION 2. IC 12-15-39.6-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 0.5. (a) This chapter applies to qualified long term care policies entered into, issued, or renewed before the implementation of the state plan amendment under IC 12-15-1.3-22.**

(b) Notwithstanding IC 12-15-39.8, the asset disregard under section 10 of this chapter applies to any qualified long term care policy to which this chapter applies.

SECTION 3. IC 12-15-39.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 39.8. Long Term Care Insurance Partnership Program

Sec. 1. This chapter applies to qualified long term care insurance policies that are entered into, issued, or renewed after the implementation of the state plan amendment under IC 12-15-1.3-22.

Sec. 2. As used in this chapter, "program" means the Indiana long term care insurance partnership program established by section 4(a) of this chapter.

Sec. 3. As used in this chapter, "qualified long term care insurance policy" means an insurance policy that meets the following requirements:

(1) The policy covers an individual who was a resident of the state when the coverage first became effective under the policy.

(2) The policy was not issued before the effective date of the state plan amendment applied for under IC 12-15-1.3-22.

(3) The policy meets the definition of a qualified long term care insurance contract under 26 U.S.C. 7702B.

(4) The policy meets the model regulations and requirements of the model act of the National Association of Insurance Commissioners provided in 42 U.S.C. 1396p(b)(5).

(5) The policy includes inflation protection options that meet the minimum standards provided in 42 U.S.C. 1396p(b)(1)(C)(iii)(IV).

(6) The department of insurance certifies that the policy meets the requirements of subdivisions (3), (4), and (5).

Sec. 4. (a) The Indiana long term care insurance partnership



1 program is established.

2 (b) The office of Medicaid policy and planning and the
3 department of insurance shall administer the program in
4 accordance with Section 6021 of the federal Deficit Reduction Act
5 of 2005.

6 Sec. 5. Under the program, the office of Medicaid policy and
7 planning must exclude and disregard an amount equal to the
8 amount of benefits an individual receives under a qualified long
9 term care insurance policy when determining the following:

10 (1) The individual's resources for purposes of determining
11 eligibility for Medicaid under IC 12-15-3.

12 (2) The amount to be recovered from the individual's estate
13 under IC 12-15-9 if the individual is eligible for Medicaid.

14 Sec. 6. (a) The department of insurance shall develop a training
15 program for insurance producers who sell qualified long term care
16 insurance policies that includes a certified prelicensing course and
17 continuing education courses. The courses must cover, at a
18 minimum, the following topics:

19 (1) State and federal regulations and requirements and the
20 relationship between qualified long term care insurance
21 policies and other public and private coverage of long term
22 care services, including Medicaid.

23 (2) Available long term care services and providers.

24 (3) Changes or improvements in long term care services or
25 providers.

26 (4) Alternatives to the purchase of private long term care
27 insurance.

28 (5) The effect of inflation on benefits and the importance of
29 inflation protection.

30 (6) Consumer suitability standards and guidelines.

31 (b) An insurance producer must:

32 (1) complete the certified prelicensing course established
33 under subsection (a) before the insurance producer may sell,
34 solicit, or negotiate a qualified long term care insurance
35 policy; and

36 (2) attend a continuing education course established under
37 subsection (a) at least once every license renewal period to
38 continue to sell, solicit, or negotiate a qualified long term care
39 insurance policy.

40 Sec. 7. An insurer that issues a qualified long term care
41 insurance policy shall provide regular reports to:

42 (1) the Secretary of the United States Department of Health



1 **and Human Services, as required by federal regulations; and**
 2 **(2) the office of Medicaid policy and planning and the**
 3 **department of insurance, as required by those entities.**

4 **Sec. 8. The secretary of family and social services and the**
 5 **department of insurance may adopt rules under IC 4-22-2**
 6 **necessary to implement this chapter.**

7 SECTION 4. IC 16-39-1-1, AS AMENDED BY P.L.157-2006,
 8 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2021]: Sec. 1. (a) This section applies to all health records
 10 except mental health records, which are governed by IC 16-39-2,
 11 IC 16-39-3, and IC 16-39-4.

12 (b) This article applies to all health records, except:

13 (1) records regarding communicable diseases, which are governed
 14 by IC 16-41-8-1; or

15 (2) records regarding alcohol and other drug abuse patient
 16 records, which are governed by 42 CFR, Part 2.

17 (c) On written request and reasonable notice, a provider shall supply
 18 to a patient the health records possessed by the provider concerning the
 19 patient. Subject to 15 U.S.C. 7601 et seq. and 16 CFR Part 315,
 20 information regarding contact lenses must be given using the following
 21 guidelines:

22 (1) After the release of a patient from an initial fitting and
 23 follow-up period of not more than six (6) months, the contact lens
 24 prescription must be released to the patient at the patient's
 25 request.

26 (2) A prescription released under subdivision (1) must contain all
 27 information required to properly duplicate the contact lenses.

28 (3) A contact lens prescription must include the following:

29 (A) An expiration date of one (1) year.

30 (B) The number of refills permitted.

31 (4) Instructions for use must be consistent with:

32 (A) recommendations of the contact lens manufacturer;

33 (B) clinical practice guidelines; and

34 (C) the professional judgment of the prescribing optometrist
 35 or physician licensed under IC 25-22.5.

36 After the release of a contact lens prescription under this subsection,
 37 liability for future fittings or dispensing of contact lenses under the
 38 original prescription lies with the dispensing company or practitioner.

39 (d) On a patient's written request and reasonable notice, a provider
 40 shall furnish to the patient or the patient's designee the following:

41 (1) A copy of the patient's health record used in assessing the
 42 patient's health condition.



(2) At the option of the patient, the pertinent part of the patient's health record relating to a specific condition, as requested by the patient.

(e) ~~A request made under this section is valid for sixty (60) days after the date the request is made.~~ **A provider shall provide health records in response to a request under this section not more than thirty (30) calendar days after receiving the written request for the health records, unless the provider:**

(1) within the initial thirty (30) days, seeks an extension of not more than thirty (30) days; and

(2) informs the patient in writing of the reasons for the extension and the date by which the provider will provide the health records.

Health records requested under this section must be provided as soon as practicably possible.

(f) In addition to exercising any other enforcement power granted by IC 16-19-3, the state department may, under IC 4-21.5, impose a civil penalty of not more than five thousand dollars (\$5,000) per violation on a provider that violates this section.



COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 261, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 5, delete "that establishes" and insert **"that:"**.

Page 1, delete lines 6 and 7, begin a new line block indented and insert:

"(1) establishes the long term insurance care partnership as described in IC 12-15-39.8; and

(2) provides that the asset disregard for all qualified long term care policies entered into under IC 12-15-39.6 will remain the same."

Page 1, line 8, delete "the state plan amendment" and insert: **"a state plan amendment that meets the requirements of subsection (a), the office must file an affidavit with the governor attesting that the state plan amendment applied for under this section is in effect. The office must file the affidavit under this subsection not later than five (5) days after the office is notified that the state plan amendment is approved."**

Page 1, delete lines 9 through 10.

Page 1, between lines 10 and 11, begin a new paragraph and insert:

"(c) The office shall implement the state plan amendment not more than sixty (60) days after the governor receives the affidavit under subsection (b)."

Page 1, line 15, delete "July 1, 2022" and insert **"the implementation of the state plan amendment under IC 12-15-1.3-22"**.

Page 2, line 8, delete "June 30, 2022." and insert **"the implementation of the state plan amendment under IC 12-15-1.3-22."**

Page 3, after line 36, begin a new paragraph and insert:

"SECTION 4. IC 16-39-1-1, AS AMENDED BY P.L.157-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) This section applies to all health records except mental health records, which are governed by IC 16-39-2, IC 16-39-3, and IC 16-39-4.

(b) This article applies to all health records, except:

(1) records regarding communicable diseases, which are governed by IC 16-41-8-1; or



(2) records regarding alcohol and other drug abuse patient records, which are governed by 42 CFR, Part 2.

(c) On written request and reasonable notice, a provider shall supply to a patient the health records possessed by the provider concerning the patient. Subject to 15 U.S.C. 7601 et seq. and 16 CFR Part 315, information regarding contact lenses must be given using the following guidelines:

(1) After the release of a patient from an initial fitting and follow-up period of not more than six (6) months, the contact lens prescription must be released to the patient at the patient's request.

(2) A prescription released under subdivision (1) must contain all information required to properly duplicate the contact lenses.

(3) A contact lens prescription must include the following:

(A) An expiration date of one (1) year.

(B) The number of refills permitted.

(4) Instructions for use must be consistent with:

(A) recommendations of the contact lens manufacturer;

(B) clinical practice guidelines; and

(C) the professional judgment of the prescribing optometrist or physician licensed under IC 25-22.5.

After the release of a contact lens prescription under this subsection, liability for future fittings or dispensing of contact lenses under the original prescription lies with the dispensing company or practitioner.

(d) On a patient's written request and reasonable notice, a provider shall furnish to the patient or the patient's designee the following:

(1) A copy of the patient's health record used in assessing the patient's health condition.

(2) At the option of the patient, the pertinent part of the patient's health record relating to a specific condition, as requested by the patient.

(e) ~~A request made under this section is valid for sixty (60) days after the date the request is made.~~ **A provider shall provide health records in response to a request under this section not more than thirty (30) calendar days after receiving the written request for the health records, unless the provider:**

(1) within the initial thirty (30) days, seeks an extension of not more than thirty (30) days; and

(2) informs the patient in writing of the reasons for the extension and the date by which the provider will provide the health records.

Health records requested under this section must be provided as



soon as practicably possible.

(f) In addition to exercising any other enforcement power granted by IC 16-19-3, the state department may, under IC 4-21.5, impose a civil penalty of not more than five thousand dollars (\$5,000) per violation on a provider that violates this section."

and when so amended that said bill do pass.

(Reference is to SB 261 as introduced.)

ZAY, Chairperson

Committee Vote: Yeas 7, Nays 0.

