



"People  
helping people  
help  
themselves"

Michael R. Pence, Governor  
State of Indiana

*Indiana Family and Social Services Administration*  
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*Confidential – Governmental Deliberative Process Privilege*

TO: Chris Atkins, Director  
Office of Management and Budget

RE: Family impact certification – nursing and therapy services

DATE: October 2, 2013

CC: Matt Branich, Brandon Shirley, Amanda Alvey, Joy Heim

This certification, submitted in accordance with Executive Order 13-05, formalizes the Family and Social Services Administration's ("FSSA") assessment of the impact of the proposed rule concerning nursing and therapy services on Indiana families.

**Executive Order 13-05 Certification of rules affecting families**

Executive Order 13-05 ("Executive Order") requires FSSA, prior to adopting any policy or rule, to certify that it has assessed its "real or potential impact on family well-being or family formation" in light of considerations set out in the Executive Order. In addition, FSSA must justify any rule that is expected to have a negative impact on family well-being or formation. The Office of Management and Budget ("OMB") must respond to FSSA's statement no later than seven (7) days before the public hearing.

**Summary of the proposed rule:**

The proposed rule amends certain provisions in 405 IAC 5-22 dealing with Medicaid reimbursement for nursing and therapy services. Specifically, the proposed rule amendments provide that medically necessary physical therapy, occupational therapy, respiratory therapy, and speech pathology for individuals under age twenty-one (21) will be covered. This rule amendment is necessary to comply with a permanent injunction issued in *A.M.T., et al. v. Gargano*, U.S. District Court for the Southern District of Indiana, Cause No. 1:10-cv-0358-JMS-TAB.

Additionally, this rule amendment revises 405 IAC 5-22 as follows:

1. updates the definitions of certain categories of services made necessary by the Court's injunction;

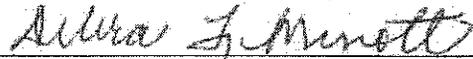


2. updates the licensure and supervision requirements for occupational therapy assistants as specified per Indiana Code 25-23.5-3 and 25-23.5-1-6; and
3. amends the rule to align with OMPP's current policy of requiring prior authorization for occupational and respiratory therapy services for acute conditions.

**Impact of the proposed rule on family well-being or family formation**

The proposed rule amendments should have no negative impact on family well-being or family formation. The rule simply ensures that Indiana Medicaid recipients under age twenty-one (21) requiring medically necessary prescribed therapy, occupational therapy, respiratory therapy, and speech pathology will receive coverage for such services without time limitations. FSSA is submitting this certification to OMB that it has considered the requisite criteria in Executive Order 13-05 in developing the proposed rule.

Office of the Secretary of Family and  
Social Services



Debra F. Minott, Secretary