

January 22, 1998

HOUSE BILL No. 1079

DIGEST OF HB 1079 (Updated January 21, 1998 8:22 pm - DI 44)

Citations Affected: IC 12-10; IC 12-15.

Synopsis: Personal needs allowance. Provides that certain individuals who are Medicaid eligible and reside in a county home, hospital, nursing facility, or community residential facility for the developmentally disabled are allowed to retain a monthly personal allowance of at least \$35 and not more than \$61.32 beginning July 1, 1998.

Effective: July 1, 1998.

**Cook, Leuck, Webber, Crooks,
Avery, Kruse, Goeglein**

January 6, 1998, read first time and referred to Committee on Ways and Means.
January 21, 1998, amended, reported — Do Pass.

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January 22, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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HOUSE BILL No. 1079

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 12-10-6-1, AS AMENDED BY P.L.24-1997,
2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 1. (a) An individual who:
4 (1) is at least sixty-five (65) years of age, blind, or disabled; and
5 (2) is a resident of a county home;
6 is eligible to receive assistance payments from the state if the
7 individual would be eligible for assistance under the federal
8 Supplemental Security Income program except for the fact that the
9 individual is residing in a county home.
10 (b) The amount of nonmedical assistance to be paid on behalf of a
11 resident in a county home must be based on the daily rate established
12 by the division. The rate for facilities under this section and licensed
13 under IC 16-28 may not exceed an upper rate limit established by a rule
14 adopted by the division.
15 (c) The rate for facilities under this section but not licensed under
16 IC 16-28 must be the lesser of:
17 (1) an upper rate limit established by a rule adopted by the

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- 1 division; or
- 2 (2) a reasonable and adequate rate to meet the costs, determined
- 3 by generally accepted accounting principles, that are incurred by
- 4 efficiently and economically operated facilities in order to provide
- 5 care and services in conformity with quality and safety standards
- 6 and applicable laws and rules.
- 7 (d) The recipient shall be paid or allowed to retain from the
- 8 recipient's income a **monthly** personal allowance in an amount to be
- 9 established by the division. The amount:
- 10 (1) may be not less than ~~twenty-eight dollars and fifty cents~~
- 11 ~~(\$28.50)~~ **thirty-five dollars (\$35)** and not more than ~~thirty-five~~
- 12 ~~dollars (\$35) monthly; sixty-one dollars and thirty-two cents~~
- 13 **(\$61.32);**
- 14 (2) is exempt from income eligibility consideration by the
- 15 division; and
- 16 (3) may be exclusively used by the recipient for personal needs.
- 17 (e) In addition to the amount that may be retained as a personal
- 18 allowance under this section, an individual is allowed to retain an
- 19 amount equal to the individual's state and local income tax liability.
- 20 The amount that may be retained during a month may not exceed
- 21 one-third (1/3) of the individual's state and local income tax liability for
- 22 the calendar quarter in which the month occurs. This amount is exempt
- 23 from income eligibility consideration by the division. The amount
- 24 retained shall be used by the individual to pay state or local income
- 25 taxes owed.
- 26 (f) The division of disability, aging, and rehabilitative services, in
- 27 cooperation with the state department of health taking into account
- 28 licensure requirements under IC 16-28, shall adopt rules under
- 29 IC 4-22-2 governing the reimbursement to facilities under this section.
- 30 The rules must be designed to determine the costs that must be incurred
- 31 by efficiently and economically operated facilities to provide room,
- 32 board, laundry, and other services, along with minimal administrative
- 33 direction to individuals who receive residential care in the facilities
- 34 under this section. A rule adopted under this subsection by:
- 35 (1) the division; or
- 36 (2) the state department of health;
- 37 must conform to the rules for residential care facilities that are licensed
- 38 under IC 16-28.
- 39 (g) A rate established under this section may be appealed according
- 40 to the procedures under IC 4-21.5.
- 41 (h) The division shall annually review each facility's rate using the
- 42 following:

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1 (1) Generally accepted accounting principles.
 2 (2) The costs incurred by efficiently and economically operated
 3 facilities in order to provide care and services in conformity with
 4 quality and safety standards and applicable laws and rules.
 5 SECTION 2. IC 12-10-6-2, AS AMENDED BY P.L.24-1997,
 6 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 1998]: Sec. 2. (a) An individual who is incapable of residing
 8 in the individual's own home may apply for residential care assistance
 9 under this section. The determination of eligibility for residential care
 10 assistance is the responsibility of the division. Except as provided in
 11 subsections (f) and (h), an individual is eligible for residential care
 12 assistance if the division determines that the individual:
 13 (1) is a recipient of Medicaid or the federal Supplemental Security
 14 Income program;
 15 (2) is incapable of residing in the individual's own home because
 16 of dementia, mental illness, or a physical disability;
 17 (3) requires a degree of care less than that provided by a health
 18 care facility licensed under IC 16-28; and
 19 (4) can be adequately cared for in a residential care setting.
 20 (b) Individuals suffering from mental retardation may not be
 21 admitted to a home or facility that provides residential care under this
 22 section.
 23 (c) A service coordinator employed by the division may:
 24 (1) evaluate a person seeking admission to a home or facility
 25 under subsection (a); or
 26 (2) evaluate a person who has been admitted to a home or facility
 27 under subsection (a), including a review of the existing
 28 evaluations in the person's record at the home or facility.
 29 If the service coordinator determines the person evaluated under this
 30 subsection is mentally retarded, the service coordinator may
 31 recommend an alternative placement for the person.
 32 (d) Except as provided in section 5 of this chapter, residential care
 33 consists of only room, board, and laundry, along with minimal
 34 administrative direction. State financial assistance may be provided for
 35 such care in a boarding or residential home of the applicant's choosing
 36 that is licensed under IC 16-28 or a Christian Science facility listed and
 37 certified by the Commission for Accreditation of Christian Science
 38 Nursing Organizations/Facilities, Inc., that meets certain life safety
 39 standards considered necessary by the state fire marshal. Payment for
 40 such care shall be made to the provider of the care according to
 41 division directives and supervision. The amount of nonmedical
 42 assistance to be paid on behalf of a recipient living in a boarding home,

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1 residential home, or Christian Science facility shall be based on the
 2 daily rate established by the division. The rate for facilities that are
 3 referred to in this section and licensed under IC 16-28 may not exceed
 4 an upper rate limit established by a rule adopted by the division. The
 5 recipient may retain from the recipient's income a **monthly** personal
 6 allowance in an amount to be established by the division, but not less
 7 than ~~twenty-eight dollars and fifty cents (\$28.50)~~ **thirty-five dollars**
 8 **(\$35)** or more than ~~thirty-five dollars (\$35) monthly~~ **sixty-one dollars**
 9 **and thirty-two cents (\$61.32)**. This amount is exempt from income
 10 eligibility consideration by the division and may be exclusively used by
 11 the recipient for the recipient's personal needs. However, if the
 12 recipient's income is less than the amount of the personal allowance,
 13 the division shall pay to the recipient the difference between the
 14 amount of the personal allowance and the recipient's income. A reserve
 15 or an accumulated balance from such a source, together with other
 16 sources, may not be allowed to exceed the state's resource allowance
 17 allowed for adults eligible for state supplemental assistance or
 18 Medicaid as established by the rules of the office of Medicaid policy
 19 and planning.

20 (e) In addition to the amount that may be retained as a personal
 21 allowance under this section, an individual shall be allowed to retain
 22 an amount equal to the individual's state and local income tax liability.
 23 The amount that may be retained during a month may not exceed
 24 one-third (1/3) of the individual's state and local income tax liability for
 25 the calendar quarter in which that month occurs. This amount is
 26 exempt from income eligibility consideration by the division. The
 27 amount retained shall be used by the individual to pay any state or local
 28 income taxes owed.

29 (f) The rate of payment to the provider shall be determined in
 30 accordance with a prospective prenegotiated payment rate predicated
 31 on a reasonable cost related basis, with a growth of profit factor, as
 32 determined in accordance with generally accepted accounting
 33 principles and methods, and written standards and criteria, as
 34 established by the division. The division shall establish an
 35 administrative appeal procedure to be followed if rate disagreement
 36 occurs if the provider can demonstrate to the division the necessity of
 37 costs in excess of the allowed or authorized fee for the specific
 38 boarding or residential home. The amount may not exceed the
 39 maximum established under subsection (d).

40 (g) The personal allowance for one (1) month for an individual
 41 described in subsection (a) whose employment is part of the
 42 individual's personal habilitation plan or who is working in a sheltered



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1 workshop or day activity center is the amount that an individual would
 2 be entitled to retain under subsection (d) plus an amount equal to
 3 one-half (1/2) of the remainder of:

4 (1) gross earned income for that month; minus

5 (2) the sum of:

6 (A) sixteen dollars (\$16); plus

7 (B) the amount withheld from the person's paycheck for that
 8 month for payment of state income tax, federal income tax,
 9 and the tax prescribed by the federal Insurance Contribution
 10 Act (26 U.S.C. 3101 et seq.); plus

11 (C) transportation expenses for that month.

12 (h) An individual who, before September 1, 1983, has been admitted
 13 to a home or facility that provides residential care under this section is
 14 eligible for residential care in the home or facility.

15 (i) The director of the division may contract with the division of
 16 mental health or the division of disability, aging, and rehabilitative
 17 services to purchase services for individuals suffering from mental
 18 illness or a developmental disability by providing money to supplement
 19 the appropriation for community residential care programs established
 20 under IC 12-22-2 or community residential programs established under
 21 IC 12-11-1-1.

22 (j) A person with a mental illness may not be placed in a Christian
 23 Science facility listed and certified by the Commission for
 24 Accreditation of Christian Science Nursing Organizations/Facilities,
 25 Inc., unless the facility is licensed under IC 16-28.

26 SECTION 3. IC 12-15-7-2 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. Not less than
 28 ~~twenty-eight dollars and fifty cents (\$28.50)~~ **thirty-five dollars (\$35)**
 29 or more than ~~thirty-five dollars (\$35)~~ **sixty-one dollars and thirty-two**
 30 **cents (\$61.32)** monthly may be exempt from income eligibility
 31 consideration.

32 SECTION 4. IC 12-15-32-6 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. The office shall
 34 allow a resident of a facility who is receiving Medicaid to retain a
 35 **monthly** personal allowance of at least ~~twenty-eight dollars and fifty~~
 36 ~~cents (\$28.50)~~ **thirty-five dollars (\$35)** but not more than ~~fifty dollars~~
 37 ~~(\$50)~~ ~~each month:~~ **sixty-one dollars and thirty-two cents (\$61.32).**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1079, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

- Page 2, line 9, delete "The division shall adjust the amount".
- Page 2, delete lines 10 through 12.
- Page 2, line 13, delete "of Labor."
- Page 2, line 14, reset in roman "(1) may not be less than".
- Page 2, line 15, after "\$28.50" insert "**thirty-five dollars (\$35)**".
- Page 2, line 15, reset in roman "and not more than".
- Page 2, line 15, after "monthly;" insert "**sixty-one dollars and thirty-two cents (\$61.32);**".
- Page 2, line 16, reset in roman "(2)".
- Page 2, line 16, delete "(1)".
- Page 2, line 18, reset in roman "(3)".
- Page 2, line 18, delete "(2)".
- Page 4, line 9, delete "." and insert ",".
- Page 4, line 9, reset in roman "but not less".
- Page 4, line 10, reset in roman "than".
- Page 4, line 10, after "\$28.50" insert "**thirty-five dollars (\$35)**".
- Page 4, line 10, reset in roman "or more than".
- Page 4, line 11, after "monthly." insert: "**sixty-one dollars and thirty-two cents (\$61.32).**".
- Page 4, line 11, delete "The division shall adjust the".
- Page 4, delete lines 12 through 14.
- Page 4, line 15, delete "Department of Labor."
- Page 5, line 32, reset in roman "Not less than".
- Page 5, line 33, after "\$28.50" insert "**thirty-five dollars (\$35)**".
- Page 5, line 33, reset in roman "or more than".
- Page 5, line 34, after "\$35" insert "**sixty-one dollars and thirty-two cents (\$61.32)**".
- Page 5, line 34, reset in roman "monthly may be".
- Page 5, line 34, delete "The amount established by the office".
- Page 5, line 35, delete "under section 1 of this chapter is".
- Page 5, line 36, delete "The office shall annually adjust the amount".
- Page 5, delete lines 37 through 40.
- Page 6, line 2, reset in roman "of at least".
- Page 6, line 3, after "\$28.50" insert "**thirty-five dollars (\$35)**".
- Page 6, line 3, reset in roman "but not more than".
- Page 6, line 3, after "month." insert: "**sixty-one dollars and thirty-two cents (\$61.32).**".

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Page 6, line 3, delete "in an".

Page 6, delete lines 4 through 22.

and when so amended that said bill do pass.

(Reference is to House Bill 1079 as introduced.)

BAUER, Chair

Committee Vote: yeas 22, nays 0.

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