

HOUSE BILL No. 1057

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-10-6-1; IC 12-10-6-2; IC 12-15-7-2; IC 12-15-32-6.

Synopsis: Personal needs allowance. Provides that certain individuals who are Medicaid eligible and who 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 not less than \$35 or more than \$67.40 beginning July 1, 1998. Requires that both the minimum and maximum amounts of this range be adjusted annually using the Consumer Price Index. Requires that both the division of disability, aging, and rehabilitative services and the office of Medicaid policy and planning annually adjust the amount of the monthly personal allowance, subject to the approval of the governor.

Effective: July 1, 1998.

Webber

January 6, 1998, read first time and referred to Committee on Ways and Means.



Introduced

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.

HOUSE BILL No. 1057

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

1998

IN 1057—LS 6655/DI 88+



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 personal allowance in an amount to be established
 9 by the division. The amount:

10 (1) may be not less than ~~twenty-eight dollars and fifty cents~~
 11 ~~(\$28.50)~~ and not more than thirty-five dollars (\$35) and not more
 12 than **sixty-seven dollars and forty cents (\$67.40)** monthly;

13 (2) is exempt from income eligibility consideration by the
 14 division; and

15 (3) may be exclusively used by the recipient for personal needs.

16 **(e) The division shall annually do the following:**

17 **(1) Adjust the minimum and maximum amounts provided in**
 18 **subsection (d)(1) to account for the immediately preceding**
 19 **year's change in prices using the Consumer Price Index for**
 20 **All Urban Consumers of the Bureau of Labor Statistics of the**
 21 **United States Department of Labor.**

22 **(2) After making the adjustment in subdivision (1), adjust the**
 23 **personal allowance within the range provided in subsection**
 24 **(d)(1), in an amount subject to the approval of the governor.**

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

34 ~~(f)~~ (g) The division, ~~of disability, aging, and rehabilitative services~~
 35 in cooperation with the state department of health taking into account
 36 licensure requirements under IC 16-28, shall adopt rules under
 37 IC 4-22-2 governing the reimbursement to facilities under this section.
 38 The rules must be designed to determine the costs that must be incurred
 39 by efficiently and economically operated facilities to provide room,
 40 board, laundry, and other services, along with minimal administrative
 41 direction to individuals who receive residential care in the facilities
 42 under this section. A rule adopted under this subsection by:



1 (1) the division; or
 2 (2) the state department of health;
 3 must conform to the rules for residential care facilities that are licensed
 4 under IC 16-28.

5 ~~(g)~~ **(h)** A rate established under this section may be appealed
 6 according to the procedures under IC 4-21.5.

7 ~~(h)~~ **(i)** The division shall annually review each facility's rate using
 8 the following:

- 9 (1) Generally accepted accounting principles.
 10 (2) The costs incurred by efficiently and economically operated
 11 facilities in order to provide care and services in conformity with
 12 quality and safety standards and applicable laws and rules.

13 SECTION 2. IC 12-10-6-2, AS AMENDED BY P.L.24-1997,
 14 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 1998]: Sec. 2. (a) An individual who is incapable of residing
 16 in the individual's own home may apply for residential care assistance
 17 under this section. The determination of eligibility for residential care
 18 assistance is the responsibility of the division. Except as provided in
 19 subsections (f) and (h), an individual is eligible for residential care
 20 assistance if the division determines that the individual:

- 21 (1) is a recipient of Medicaid or the federal Supplemental Security
 22 Income program;
 23 (2) is incapable of residing in the individual's own home because
 24 of dementia, mental illness, or a physical disability;
 25 (3) requires a degree of care less than that provided by a health
 26 care facility licensed under IC 16-28; and
 27 (4) can be adequately cared for in a residential care setting.

28 (b) Individuals suffering from mental retardation may not be
 29 admitted to a home or facility that provides residential care under this
 30 section.

- 31 (c) A service coordinator employed by the division may:
 32 (1) evaluate a person seeking admission to a home or facility
 33 under subsection (a); or
 34 (2) evaluate a person who has been admitted to a home or facility
 35 under subsection (a), including a review of the existing
 36 evaluations in the person's record at the home or facility.

37 If the service coordinator determines the person evaluated under this
 38 subsection is mentally retarded, the service coordinator may
 39 recommend an alternative placement for the person.

40 (d) Except as provided in section 5 of this chapter, residential care
 41 consists of only room, board, and laundry, along with minimal
 42 administrative direction. State financial assistance may be provided for



1 such care in a boarding or residential home of the applicant's choosing
 2 that is licensed under IC 16-28 or a Christian Science facility listed and
 3 certified by the Commission for Accreditation of Christian Science
 4 Nursing Organizations/Facilities, Inc., that meets certain life safety
 5 standards considered necessary by the state fire marshal. Payment for
 6 such care shall be made to the provider of the care according to
 7 division directives and supervision. The amount of nonmedical
 8 assistance to be paid on behalf of a recipient living in a boarding home,
 9 residential home, or Christian Science facility shall be based on the
 10 daily rate established by the division. The rate for facilities that are
 11 referred to in this section and licensed under IC 16-28 may not exceed
 12 an upper rate limit established by a rule adopted by the division. The
 13 recipient may retain from the recipient's income a personal allowance
 14 in an amount to be established by the division, but not less than
 15 ~~twenty-eight dollars and fifty cents (\$28.50) or more than~~ thirty-five
 16 dollars (\$35) ~~monthly or more than sixty-seven dollars and forty~~
 17 **cents (\$67.40) monthly.** This amount is exempt from income
 18 eligibility consideration by the division and may be exclusively used by
 19 the recipient for the recipient's personal needs. However, if the
 20 recipient's income is less than the amount of the personal allowance,
 21 the division shall pay to the recipient the difference between the
 22 amount of the personal allowance and the recipient's income. A reserve
 23 or an accumulated balance from such a source, together with other
 24 sources, may not be allowed to exceed the state's resource allowance
 25 allowed for adults eligible for state supplemental assistance or
 26 Medicaid as established by the rules of the office of Medicaid policy
 27 and planning.

28 **(e) The division shall annually do the following:**

29 **(1) Increase the minimum and maximum amounts provided**
 30 **in subsection (d) to account for the immediately preceding**
 31 **year's change in prices using the Consumer Price Index for**
 32 **All Urban Consumers of the Bureau of Labor Statistics of the**
 33 **United States Department of Labor.**

34 **(2) After making the adjustment in subdivision (1), adjust the**
 35 **personal allowance within the range provided in subsection**
 36 **(d), in an amount subject to the approval of the governor.**

37 ~~(e)~~ **(f)** In addition to the amount that may be retained as a personal
 38 allowance under this section, an individual shall be allowed to retain
 39 an amount equal to the individual's state and local income tax liability.
 40 The amount that may be retained during a month may not exceed
 41 one-third (1/3) of the individual's state and local income tax liability for
 42 the calendar quarter in which that month occurs. This amount is



1 exempt from income eligibility consideration by the division. The
 2 amount retained shall be used by the individual to pay any state or local
 3 income taxes owed.

4 (f) (g) The rate of payment to the provider shall be determined in
 5 accordance with a prospective prenegotiated payment rate predicated
 6 on a reasonable cost related basis, with a growth of profit factor, as
 7 determined in accordance with generally accepted accounting
 8 principles and methods, and written standards and criteria, as
 9 established by the division. The division shall establish an
 10 administrative appeal procedure to be followed if rate disagreement
 11 occurs if the provider can demonstrate to the division the necessity of
 12 costs in excess of the allowed or authorized fee for the specific
 13 boarding or residential home. The amount may not exceed the
 14 maximum established under subsection (d).

15 (g) (h) The personal allowance for one (1) month for an individual
 16 described in subsection (a) whose employment is part of the
 17 individual's personal habilitation plan or who is working in a sheltered
 18 workshop or day activity center is the amount that an individual would
 19 be entitled to retain under subsection (d) plus an amount equal to
 20 one-half (1/2) of the remainder of:

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

22 (2) the sum of:

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

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

28 (C) transportation expenses for that month.

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

32 (i) (j) The director of the division may contract with the division of
 33 mental health or the division of disability, aging, and rehabilitative
 34 services to purchase services for individuals suffering from mental
 35 illness or a developmental disability by providing money to supplement
 36 the appropriation for community residential care programs established
 37 under IC 12-22-2 or community residential programs established under
 38 IC 12-11-1-1.

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



1 SECTION 3. IC 12-15-7-2 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) Not less than
 3 ~~twenty-eight dollars and fifty cents (\$28.50)~~ or more than thirty-five
 4 dollars (\$35) ~~monthly or more than sixty-seven dollars and forty~~
 5 **cents (\$67.40)** may be exempt from income eligibility consideration.

6 (b) **The office shall annually do the following:**

7 (1) **Increase the minimum and maximum amounts provided**
 8 **in subsection (a) to account for the immediately preceding**
 9 **year's change in prices using the Consumer Price Index for**
 10 **All Urban Consumers of the Bureau of Labor Statistics of the**
 11 **United States Department of Labor.**

12 (2) **After making the adjustment in subdivision (1), adjust the**
 13 **personal allowance within the range provided in subsection**
 14 **(a), in an amount subject to the approval of the governor.**

15 SECTION 4. IC 12-15-32-6 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) The office shall
 17 allow a resident of a facility who is receiving Medicaid to retain a
 18 **monthly** personal allowance of at least ~~twenty-eight dollars and fifty~~
 19 ~~cents (\$28.50)~~ but not more than fifty ~~thirty-five~~ dollars (\$50) each
 20 month (\$35) but not more than sixty-seven dollars and forty cents
 21 (\$67.40) in an amount determined by the office.

22 (b) **The office shall annually do the following:**

23 (1) **Increase the minimum and maximum amounts provided**
 24 **in subsection (a) to account for the immediately preceding**
 25 **year's change in prices using the Consumer Price Index for**
 26 **All Urban Consumers of the Bureau of Labor Statistics of the**
 27 **United States Department of Labor.**

28 (2) **After making the adjustment in subdivision (1), adjust the**
 29 **personal allowance within the range provided in subsection**
 30 **(a), in an amount subject to the approval of the governor.**

31 SECTION 5. [EFFECTIVE JULY 1, 1998] (a) Notwithstanding
 32 IC 12-10-6-1, IC 12-10-6-2, IC 12-15-7-2, and IC 12-15-32-6, all as
 33 amended by this act, the amount a recipient is allowed to retain
 34 each month as a monthly personal allowance, for the period July
 35 1, 1998, through June 30, 1999, is thirty-five dollars (\$35).

36 (b) Notwithstanding IC 12-10-6-1, IC 12-10-6-2, IC 12-15-7-2,
 37 and IC 12-15-32-6, all as amended by this act:

38 (1) **the minimum and maximum range for a personal needs**
 39 **allowance as provided in IC 12-10-6-1, IC 12-10-6-2,**
 40 **IC 12-15-7-2, and IC 12-15-32-6; and**

41 (2) **the amount a recipient is allowed to retain as a monthly**
 42 **personal allowance;**



1 shall be adjusted after July 1, 1999, but before October 1, 1999,
2 using the Consumer Price Index for All Urban Consumers of the
3 Bureau of Labor Statistics of the United States Department of
4 Labor to account for the change in prices from July 1, 1998, to
5 June 30, 1999.

6 (c) This SECTION expires July 1, 2000.

