

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 19, 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:

- Delete the title and insert the following:
 - "A BILL FOR AN ACT to amend the Indiana Code concerning human services."
- Delete everything after the enacting clause and insert the following:
 - "SECTION 1. IC 5-14-3-2, AS AMENDED BY P.L.50-1995, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter:
 - "Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.
 - "Direct cost" means one hundred five percent (105%) of the sum of the cost of:
 - (1) the initial development of a program, if any;
 - (2) the labor required to retrieve electronically stored data; and
 - (3) any medium used for electronic output;
 - for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.
 - "Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.
 - "Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:
 - (1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

"Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

"Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

"Investigatory record" means information compiled in the course of the investigation of a crime.

"Patient" has the meaning set out in IC 16-18-2-272(c).

"Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

"Provider" has the meaning set out in ~~IC 16-18-2-295(b)~~ **IC 16-18-2-295(c)** and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

"Public agency" means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the state board of tax commissioners or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts.

(4) Any building corporation of a political subdivision that issues

bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcoholic beverage commission, conservation officers of the department of natural resources, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

"Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, used, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

"Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

"Trade secret" has the meaning set forth in IC 24-2-3-2.

"Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation and includes the attorney's:

- (1) notes and statements taken during interviews of prospective witnesses; and
- (2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 2. IC 12-7-2-154.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 154.8. "Qualified entity", for purposes of IC 12-15-2.2, has the meaning set forth in IC 12-15-2.2-1.**

SECTION 3. IC 12-15-1-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18. The office shall use all funds that are appropriated to the office for outreach purposes to**

conduct outreach activities in order to encourage children who are:

- (1) less than nineteen (19) years of age;
- (2) eligible for Medicaid; and
- (3) not enrolled in the Medicaid program;

to apply for and enroll in the Medicaid program.

SECTION 4. IC 12-15-2-15.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 15.6. (a) Notwithstanding sections 15 and 15.5 of this chapter, an individual:**

- (1) whose family income does not exceed one hundred fifty percent (150%) of the federal income poverty level for the same size family;
- (2) who is otherwise eligible for Medicaid under section 15 or 15.5 of this chapter; and
- (3) who is not otherwise eligible for Medicaid under this chapter;

is eligible for Medicaid.

(b) The state's share of any treatment received by an individual who is eligible for Medicaid under this section is calculated under Title XXI of the federal Social Security Act (42 U.S.C. 1396aa et seq.).

(c) This section expires June 30, 1999.

SECTION 5. IC 12-15-2-15.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 15.7. (a) An individual who is less than nineteen (19) years of age and who is eligible for Medicaid under sections 11 through 15.6 of this chapter is eligible to receive Medicaid until the earlier of the following:**

- (1) The end of a period of twelve (12) consecutive months following a determination of the individual's eligibility for Medicaid.
- (2) The individual becomes nineteen (19) years of age.

(b) This section expires June 30, 1999.

SECTION 6. IC 12-15-2.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]:

Chapter 2.2. Presumptive Eligibility for Pregnant Women and Children

Sec. 1. As used in this chapter, "qualified entity" means one (1) of the following:

- (1) To determine presumptive eligibility for a pregnant woman, the term means an entity that:
 - (A) is eligible to receive payments under this article;
 - (B) provides outpatient hospital services, rural health clinic services and any other ambulatory services offered by a rural health clinic, or clinic services furnished by or under the direction of a licensed physician;
 - (C) is determined by the office to be capable of making a determination described in section 5(1) of this chapter; and
 - (D) meets all other requirements set forth in 42 U.S.C. 1396r-1(b)(2)(D).
- (2) To determine presumptive eligibility for a child, the term

means a provider that is eligible to receive payments under this article and is approved by the office or an entity that is authorized:

(A) to determine the eligibility of a child to:

(i) participate in a Head Start program under 42 U.S.C. 9831 et seq.;

(ii) receive child care services for which financial assistance is provided under the Child Care and Development Block Grant Act of 1990 under 42 U.S.C. 9858 et seq.; or

(iii) receive assistance under the women, infants, and children nutrition program (as defined in IC 16-35-1.5-5); and

(B) by the office to be capable of making a determination described in section 5(1) of this chapter.

Sec. 2. A qualified entity may establish the presumptive eligibility of an individual who may be eligible for Medicaid under IC 12-15-2-11 through IC 12-15-2-15.6.

Sec. 3. An entity described in section 1(2) of this chapter may apply to the office, on a form provided by the office, for authorization to be a qualified entity under this chapter.

Sec. 4. The office shall provide each qualified entity with the following:

(1) Application forms for Medicaid.

(2) Information on how to assist pregnant women, parents, guardians, and other individuals in completing and filing the application forms.

Sec. 5. Subject to section 6(2) of this chapter, the office shall provide Medicaid services to a child or pregnant woman during a period that:

(1) begins on the date on which a qualified entity determines on the basis of preliminary information, including a certified copy of the previous year's tax return or a recent pay stub, that the family income of the child or pregnant woman does not exceed the applicable family income level of eligibility for the child or pregnant woman for Medicaid under IC 12-15-2; and

(2) ends on the earlier of the following:

(A) The date on which a determination is made by a representative of the county office with respect to the eligibility of the child or pregnant woman for Medicaid under IC 12-15-2.

(B) The last day of the month following the month in which the qualified entity makes the determination described in subdivision (1).

Sec. 6. A pregnant woman:

(1) may only have a presumptive eligibility determination made by an entity described in section 1(1) of this chapter; and

(2) is eligible to receive only ambulatory prenatal care during a period of presumptive eligibility.

Sec. 7. A qualified entity that determines that a child or pregnant woman is presumptively eligible for Medicaid shall do the following:

(1) Notify the office of the determination within five (5) working days after the date on which the determination is made.

(2) Inform:

(A) the parent, guardian, or custodian of the child; or

(B) the pregnant woman;

that an application for Medicaid is required to be made at the county office in the county where the child or the pregnant woman resides not later than the last day of the month following the month during which the determination is made.

Sec. 8. If a child or pregnant woman is determined to be presumptively eligible for Medicaid under this chapter, the:

(1) child's parent, guardian, or custodian; or

(2) pregnant woman;

shall complete an application for Medicaid as provided in IC 12-15-4 not later than the last day of the month following the month during which the determination is made.

Sec. 9. The office shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 7. IC 12-26-2-5, AS AMENDED BY P.L.6-1995, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section applies under the following statutes:

(1) IC 12-26-6.

(2) IC 12-26-7.

(3) IC 12-26-12.

(4) IC 12-26-15.

(b) A petitioner may be represented by counsel.

(c) The court may appoint counsel for a petitioner upon a showing of the petitioner's indigency and the court shall pay for such counsel if appointed.

(d) A petitioner, including a petitioner who is a health care provider under ~~IC 16-18-2-295(b)~~, IC 16-18-2-295(c), in the petitioner's individual capacity or as a corporation is not required to be represented by counsel. If a petitioner who is a corporation elects not to be represented by counsel, the individual representing the corporation at the commitment hearing must present the court with written authorization from:

(1) an officer;

(2) a director;

(3) a principal; or

(4) a manager;

of the corporation that authorizes the individual to represent the interest of the corporation in the proceedings.

(e) The petitioner is required to prove by clear and convincing evidence that:

(1) the individual is mentally ill and either dangerous or gravely disabled; and

(2) detention or commitment of that individual is appropriate.

SECTION 8. IC 16-18-2-294.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 294.3. "Program" for purposes of IC 16-35-6, has the meaning set forth in IC 16-35-6-1.

SECTION 9. IC 16-18-2-295, AS AMENDED BY P.L.188-1995, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 295. (a) "Provider", for purposes of IC 16-25, means a hospice program certified under IC 16-25-1.

(b) "Provider", for purposes of IC 16-35-6, has the meaning set forth in IC 16-35-6-2.

~~(b)~~ (c) "Provider", for purposes of IC 16-39 except for IC 16-39-7 and for purposes of IC 16-41-1 through IC 16-41-9, means any of the following:

(1) An individual (other than an individual who is an employee or a contractor of a hospital, a facility, or an agency described in subdivision (2) or (3)) who is licensed, registered, or certified as a health care professional, including the following:

- (A) A physician.
- (B) A psychotherapist.
- (C) A dentist.
- (D) A registered nurse.
- (E) A licensed practical nurse.
- (F) An optometrist.
- (G) A podiatrist.
- (H) A chiropractor.
- (I) A physical therapist.
- (J) A psychologist.
- (K) An audiologist.
- (L) A speech-language pathologist.
- (M) A dietitian.
- (N) An occupational therapist.
- (O) A respiratory therapist.
- (P) A pharmacist.

(2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24-1 or IC 12-29.

(3) A health facility licensed under IC 16-28-2.

(4) A home health agency licensed under IC 16-27-1.

(5) An employer of a certified emergency medical technician, a certified advanced emergency medical technician, or a certified paramedic.

~~(c)~~ (d) "Provider", for purposes of IC 16-39-7-1, has the meaning set forth in IC 16-39-7-1(a).

SECTION 10. IC 16-35-6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 6. Children's Health Insurance Program

Sec. 1. As used in this chapter, "program" refers to the children's health insurance program established under this chapter.

Sec. 2. As used in this chapter, "provider" means any person who provides health insurance in Indiana. The term includes the following:

- (1) A licensed insurance company.**
- (2) A prepaid hospital or medical service plan.**
- (3) A health maintenance organization.**
- (4) A multiple employer welfare arrangement.**
- (5) Any person providing a plan of health insurance subject to state insurance law.**

Sec. 3. The children's health insurance program is established within the state department.

Sec. 4. A child may apply to receive services provided by the program if the child:

(1) meets the qualifications described in section 12 of this chapter; or

(2) receives health care services through the Hoosier Healthwise program under IC 12-15.

Sec. 5. A child who enrolls in the program shall receive the health care services described in section 18 of this chapter regardless of whether the child is described in section 4(1) of this chapter or section 4(2) of this chapter.

Sec. 6. The program shall design and administer a system to obtain health insurance for eligible children.

Sec. 7. The program shall contract with providers under IC 5-22 to provide health insurance and other services to a child who is enrolled in the program. A contract under this section must require a provider to do the following:

(1) Serve as a qualified entity (as defined in IC 12-15-2.2-1) in order to determine the presumptive eligibility for pregnant women and children for Medicaid as provided in IC 12-15-2.2.

(2) Assist a presumptively eligible individual under subdivision (1) to select a primary care provider.

(3) Establish locations where an applicant may apply to receive services provided by the program.

(4) Provide education concerning the following:

(A) The responsible use of health facilities and information.

(B) Preventive care.

(C) Parental responsibilities for a child's health care.

(5) Provide outreach and evaluation activities for the program.

Sec. 8. (a) The program shall establish performance criteria and evaluation measures for a provider that the program contracts with under section 7 of this chapter.

(b) The program shall assess monetary penalties on a provider that fails to comply with the requirements of this chapter or a rule adopted under this chapter.

Sec. 9. The program shall adopt a sliding scale formula that specifies the premiums, if any, to be paid by the parent or guardian of a child enrolled in the program based on the parent's or guardian's annual income.

Sec. 10. The program shall annually adjust the participation requirements to reflect the amount of money available to obtain health insurance for children enrolled in the program.

Sec. 11. The program shall establish and administer a program fund to provide premium assistance from the state to children enrolled in the program.

Sec. 12. (a) In order to enroll in the program, a child must meet the following requirements:

(1) The child and the child's family may not have access to affordable health insurance through an employer.

(2) The child and the child's family may not have not

participated in a health insurance program for at least one (1) year before enrolling in the program.

(3) The child's family agrees to provide copayments for services based on a sliding fee scale developed by the program.

(b) The program must operate within available funds appropriated to the program.

Sec. 13. To be eligible to receive reimbursement from the program, a provider shall offer program services to an eligible child without:

(1) regard to the child's health status; and

(2) imposing a preexisting condition exclusion;

except that a preexisting condition exclusion may be applied if program services are provided through a group health plan or group health insurance coverage, consistent with the limitations on imposing preexisting condition exclusions provided in state and federal law.

Sec. 14. Premium and cost sharing amounts under the program are limited to the following:

(1) Deductibles, coinsurance, or other cost sharing are not permitted with respect to benefits for well-baby and well-child care, including age appropriate immunizations.

(2) For children whose family income is equal to or less than one hundred fifty percent (150%) of the federal income poverty level:

(A) premiums, enrollment fees or similar charges may not exceed the maximum monthly charge permitted consistent with standards established to carry out section 1916(b)(1) of the Social Security Act, (42 U.S.C. 301 et seq.); and

(b) deductibles and other cost sharing shall not exceed a nominal amount that is consistent with standards provided under Section 1916(a)(3) of the Social Security Act (42 U.S.C. 301 et seq.), as adjusted.

(3) For children whose family income is greater than one hundred fifty percent (150%) of the federal income poverty level, premiums, deductibles, and other cost sharing may be imposed on a sliding scale related to family income; however, the total annual aggregate cost sharing with respect to all children in a family under this chapter may not exceed five percent (5%) of the family's income for the year.

Sec. 15. Providers shall use existing health insurance sales and marketing methods, including the use of agents and payment of commissions, to inform families of the availability of the program and assist families in obtaining health insurance coverage for children under the program.

Sec. 16. A child who is eligible to participate in the program is eligible for coverage with a participating provider regardless of the child's health status.

Sec. 17. (a) A child who is participating in the program may change enrollment between participating providers during the annual coverage renewal date if the child provides notice to the participating provider with which the child is currently enrolled at least six (6) months before the child changes enrollment.

(b) The period required for the notice to be sent under subsection (a) is reduced to sixty (60) days before the child elects to change participating providers if the child has changed residence to an area outside the geographic service area of the participating provider with which the child is currently enrolled.

Sec. 18. (a) The program shall offer health insurance coverage for the following basic services:

- (1) Inpatient and outpatient hospital services.
- (2) Physicians' surgical and medical services.
- (3) Laboratory and x-ray services.
- (4) Well-baby and well-child care, including age appropriate immunizations.

(b) The program shall offer health insurance coverage for the following additional services if the coverage for the services has an actuarial value of at least seventy-five percent (75%) of the actuarial value of the services provided by the benchmark program for the following:

- (1) Coverage of prescription drugs.
- (2) Mental health services.
- (3) Vision services.
- (4) Hearing services.
- (5) Dental services.

(c) Notwithstanding subsections (a) and (b), the program shall offer health insurance coverage for the same services provided under the early and periodic screening, diagnosis, and treatment program (EPSDT) under IC 12-15.

Sec. 19. The office of the secretary of family and social services shall provide information and assistance to the program as requested by the program.

Sec. 20. Not later than March 1 of each year, the program shall provide a report describing the program's activities during the preceding calendar year to the state budget committee.

Sec. 21. The program shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "program" refers to the children's health insurance program under IC 16-35-6, as added by this act.

(b) The program, with the assistance of the office of Medicaid policy and planning, shall apply under Section 1115 of the federal Social Security Act to the Secretary of the United States Department of Health and Human Services for any waivers required to implement the program. The intent of a waiver under this SECTION is to allow the state to offer the same health care services both to children who enroll in the program and to children who currently receive health care services under the Medicaid program.

(c) This SECTION expires January 1, 2001.

SECTION 12. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "program" refers to the children's health insurance program under IC 16-35-6, as added by this act.

(b) The program shall submit a state plan outlining Indiana's initial children's health insurance program to the Secretary of the United States Department of Health and Human Services before July 1, 1998.

- ||| (c) The program shall amend the state plan outlining Indiana's
- ||| children's health insurance program to describe a program
- ||| including the elements required under IC 16-35-6, as added by this
- ||| act, before April 1, 1999.
- ||| (d) The state shall transfer funds from the Medicaid indigent
- ||| care trust fund under IC 12-15-20 to pay for the state's share of
- ||| funds required to receive federal financial participation under the
- ||| program.
- ||| (e) This SECTION expires January 1, 2001.
- |||| SECTION 13. An emergency is declared for this act.
- |||| (Reference is to SB 19 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Planning and Public Services.

Garton Chairperson