

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

## HOUSE ENROLLED ACT No. 2034

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AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 5-10-8-7.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 7.3. (a) As used in this section, "covered individual" means an individual who is:**

- (1) covered under a self-insurance program established under section 7(b) of this chapter to provide group health coverage;**
- or**
- (2) entitled to services under a contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.**

**(b) As used in this section, "early intervention services" means services provided to a first steps child under IC 12-17-15-3 and 20 U.S.C. 1432(4).**

**(c) As used in this section, "first steps child" means an infant or toddler from birth through two (2) years of age who is enrolled in the Indiana first steps program and is a covered individual.**

**(d) As used in this section, "first steps program" refers to the program established under IC 12-17-15 and 20 U.S.C. 1431 et seq. to meet the needs of:**

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- (1) children who are eligible for early intervention services; and**
- (2) their families.**

**The term includes the coordination of all available federal, state, local, and private resources available to provide early intervention services within Indiana.**

**(e) As used in this section, "health benefits plan" means a:**

- (1) self-insurance program established under section 7(b) of this chapter to provide group health coverage; or**
- (2) contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.**

**(f) A health benefits plan that provides coverage for early intervention services shall reimburse the first steps program for payments made by the program for early intervention services that are covered under the health benefits plan.**

**(g) The reimbursement required under subsection (f) is limited to an annual maximum benefit of three thousand five hundred dollars (\$3,500) per first steps child.**

**(h) The reimbursement required under subsection (f) may not be applied to any annual or aggregate lifetime limit on the first steps child's coverage under the health benefits plan.**

**(i) The first steps program may pay required deductibles, copayments, or other out-of-pocket expenses for a first steps child directly to a provider. A health benefits plan shall apply any payments made by the first steps program to the health benefits plan's deductibles, copayments, or other out-of-pocket expenses according to the terms and conditions of the health benefits plan.**

**SECTION 2. IC 12-17-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) As used in this chapter, "early intervention services" means developmental services that meet the following conditions:**

- (1) Are provided under public supervision.**
- (2) Are provided at no cost, except where federal or state law allows for a system of payments by families, which may include a sliding scale of fees.**
- (3) Are designed to meet the developmental needs of infants and toddlers with disabilities in at least one (1) of the areas specified in section 4(a)(1) of this chapter.**
- (4) Meet all required state and federal standards.**
- (5) Are provided by qualified personnel, including the following:**
  - (A) Early childhood special educators, early childhood educators, and special educators.**



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- (B) Speech and language pathologists and audiologists.
  - (C) Occupational therapists.
  - (D) Physical therapists.
  - (E) Psychologists.
  - (F) Social workers.
  - (G) Nurses.
  - (H) Nutritionists.
  - (I) Family therapists.
  - (J) Orientation and mobility specialists.
  - (K) Pediatricians and other physicians.
- (6) To the maximum extent appropriate, are provided in natural environments, including the home and community settings in which children without disabilities participate.
- (7) Are provided in conformity with an individualized family service plan adopted in accordance with 20 U.S.C. ~~1477~~ **1435**.
- (b) The term includes the following services:
- (1) Family training, counseling, and home visits.
  - (2) Special instruction.
  - (3) Speech and language pathology and audiology.
  - (4) Occupational therapy.
  - (5) Physical therapy.
  - (6) Psychological services.
  - (7) Service coordination services.
  - (8) Medical services only for diagnostic, evaluation, or consultation purposes.
  - (9) Early identification, screening, and assessment services.
  - (10) Other health services necessary for the infant or toddler to benefit from the services.
  - (11) Vision services.
  - (12) Supportive technology services.
  - (13) Transportation and related costs that are necessary to enable an infant or a toddler and the infant or toddler's family to receive early intervention services.

SECTION 3. IC 12-17-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) As used in this chapter, "infants and toddlers with disabilities" means individuals ~~less than three~~ ~~(3)~~ **from birth through two (2) years of age** who need early intervention services because the individuals meet the following conditions:

- (1) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in at least one (1) of the following:

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- (A) Cognitive development.
- (B) Physical development.
- (C) Communication development.
- (D) Social or emotional development.
- (E) Adaptive development.

(2) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(b) This term may also include, under rules adopted by the division, individuals ~~who are less than three (3)~~ **from birth through two (2)** years of ~~age~~ **life** and who are at risk of having substantial developmental delays if early intervention services are not provided.

SECTION 4. IC 12-17-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The purposes of this chapter are as follows:

- (1) To enhance the development and minimize the potential for developmental delay of infants and toddlers with disabilities.
- (2) To reduce the educational costs to the state by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age.
- (3) To minimize the likelihood of institutionalization and maximize the potential for independent living of individuals with disabilities.
- (4) To enhance the capacity of families to meet the special needs of infants and toddlers with disabilities.
- (5) To comply with 20 U.S.C. ~~1471~~ **1431** through ~~1485~~ **1445**.

SECTION 5. IC 12-17-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) The section shall do the following:

- (1) Carry out the general administration and supervision of programs and activities receiving assistance under this chapter, monitor programs and activities implemented by the state, regardless of whether the programs and activities are receiving assistance under this chapter, and ensure that the state complies with 20 U.S.C. ~~1471~~ **1431** through ~~1485~~ **1445** in implementing this chapter.
- (2) Identify and coordinate all available resources from federal, state, local, and private sources, including public and private insurance coverage and utilizing all existing applicable resources to the full extent of the resources.
- (3) Develop the procedures to ensure that early intervention services are provided to infants and toddlers with disabilities and their families in a timely manner pending the resolution of

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disputes among public agencies and providers.

(4) Resolve disputes within an agency or between agencies.

(5) Enter into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services consistent with Indiana law and procedures for resolving disputes, including all additional components necessary to ensure meaningful cooperation and coordination.

(b) The state shall designate an individual or entity responsible for assigning financial responsibility among appropriate agencies under this chapter.

SECTION 6. IC 12-17-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The council consists of at least fifteen (15) but not more than twenty-five (25) members appointed by the governor as follows:

(1) At least twenty percent (20%) of the members must be parents, including minority parents, of infants or toddlers with disabilities or children who are ~~less than thirteen (13)~~ **twelve (12)** years of age **or younger** with disabilities who have knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one (1) of the members described in this subdivision must be a parent of an infant or toddler with a disability or a child with a disability who is ~~less than seven (7)~~ **six (6)** years of age **or younger**.

(2) At least twenty percent (20%) of the members must be public or private providers of early intervention services.

(3) At least one (1) member must be a member of the general assembly.

(4) Each of the state agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families must be represented by at least one (1) member. The members described in this subdivision must have sufficient authority to engage in policy planning and implementation on behalf of the state agency the member represents.

(5) At least one (1) member must be involved in personnel preparation.

(6) At least one (1) member must represent a state educational agency responsible for preschool services to children with disabilities and must have sufficient authority to engage in policy planning and implementation on behalf of the agency.

(7) At least one (1) member must represent the department of insurance created under IC 27-1-1-1.

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**(8) At least one (1) member must represent a Head Start agency or program in Indiana.**

**(9) At least one (1) member must represent a state agency responsible for child care.**

(b) To the extent possible, the governor shall ensure that the membership of the council reasonably represents the population of Indiana.

SECTION 7. IC 12-17-15-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. The council shall meet at least ~~four (4) times each year~~: **quarterly**.

SECTION 8. IC 12-17-15-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. The council shall do the following:

(1) Advise and assist the section in the performance of the responsibilities set forth in section 6 of this chapter, particularly the following:

(A) Identification of the sources of fiscal and other support for services for early intervention programs.

(B) Use of the existing resources to the full extent in implementing early intervention programs.

(C) Assignment of financial responsibility to the appropriate agency.

(D) Promotion of the interagency agreements.

(2) Advise and assist the section in the preparation of applications required under 20 U.S.C. ~~1471~~ **1431** through ~~1485~~: **1445**.

(3) Prepare and submit an annual report to the governor, the general assembly, and the United States Secretary of Education by November 1 of each year concerning the status of early intervention programs for infants and toddlers with disabilities and their families.

(4) Periodically request from the agencies responsible for providing early childhood intervention services for infants and toddlers with disabilities and preschool special education programs written reports concerning the implementation of each agency's respective programs.

(5) Make recommendations to the various agencies concerning improvements to each agency's delivery of services.

(6) Otherwise comply with 20 U.S.C. ~~1482~~: **1441**.

SECTION 9. IC 12-17-15-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) To the extent that the services are appropriate, the council shall advise and assist the department of education regarding the transition of toddlers with

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disabilities to preschool special education services under IC 20-1-6.

(b) The council may advise and assist the section and the department of education regarding the provision of appropriate services for children who are ~~less than six (6)~~ **five (5)** years of age **or younger**.

SECTION 10. IC 12-17-15-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. Upon the recommendations of the council, the section shall adopt rules under IC 4-22-2 providing for a statewide system of coordinated, comprehensive, multidisciplinary, interagency programs that provide appropriate early intervention services to all infants and toddlers with disabilities and their families to the extent required under 20 U.S.C. ~~1471 1431~~ through ~~1485: 1445~~.

SECTION 11. IC 12-17-15-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. To the extent required in 20 U.S.C. ~~1471 1431~~ through ~~1485: 1445~~, the statewide system must include the following:

- (1) A definition of the term "developmentally delayed" to be used in carrying out the programs under this chapter.
- (2) The timetables necessary for ensuring that the appropriate early intervention services are available to all infants and toddlers with disabilities before the beginning of the fifth year of the state's participation under 20 U.S.C. ~~1471 1431~~ through ~~1485: 1445~~.
- (3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant and toddler with disabilities in Indiana and the needs of the families to appropriately assist in the development of the infant and toddler with disabilities program.
- (4) For each infant and toddler with disabilities in Indiana, an individualized family service plan in accordance with 20 U.S.C. ~~1477, 1436~~, including case management services consistent with the individualized family service plan.
- (5) A comprehensive system for identifying infants and toddlers with disabilities, including a system for making referrals to service providers that:
  - (A) includes time lines; and
  - (B) provides for the participation by primary referral sources.
- (6) A public awareness program.
- (7) A central directory that includes early intervention services, resources, experts, and research and demonstration projects being conducted.
- (8) A comprehensive system of personnel development.
- (9) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention

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services in Indiana, consistent with 20 U.S.C. ~~1471~~ **1431** through ~~1485~~ **1445** and including the contents of the application used and the conditions of the contract or other arrangements.

(10) A procedure for securing timely reimbursement of funds used under this chapter in accordance with 20 U.S.C. ~~1481(a)~~ **1440(a)**.

(11) Procedural safeguards with respect to programs under this chapter as required under 20 U.S.C. ~~1480~~ **1439**.

(12) Policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this chapter are appropriately and adequately prepared and trained, including the following:

(A) The establishment and maintenance of standards that are consistent with any state approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the personnel are providing early intervention services.

(B) To the extent the standards are not based on the highest requirements in Indiana applicable to the specific profession or discipline, the steps the state is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in Indiana.

(13) A system for compiling data on the following:

(A) The numbers of infants and toddlers with disabilities and their families in Indiana in need of appropriate early intervention services, which may be based on a sampling of data.

(B) The numbers of infants and toddlers and their families served.

(C) The types of services provided, which may be based on a sampling of data.

(D) Other information required under 20 U.S.C. ~~1471~~ **1431** through ~~1485~~.

SECTION 12. IC 20-12-3.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

**Chapter 3.2. State Educational Institution Employee Health Plans**

**Sec. 1. (a) For purposes of this chapter, "covered individual" means an individual entitled to coverage under an employee health plan.**

**(b) For purposes of this chapter, "early intervention services"**

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means services provided to a first steps child under IC 12-17-15-3 and 20 U.S.C. 1432(4).

(c) For purposes of this chapter, "employee health plan" means:

- (1) a program of self-insurance established and maintained by a state educational institution (as defined in IC 20-12-0.5-1) to cover the provision of health care services (as defined in IC 27-8-11-1) to its employees;
- (2) a group contract entered into or renewed by a state educational institution with a health maintenance organization (as defined in IC 27-13-1-19) to provide services to employees of the state educational institution; or
- (3) a policy of accident and sickness insurance (as defined in IC 27-8-5-1) issued or renewed on a group basis to a state educational institution to provide coverage for employees of the state educational institution.

(d) For purposes of this chapter, "first steps child" means an infant or toddler from birth through two (2) years of age who is enrolled in the Indiana first steps program and is a covered individual.

(e) As used in this chapter, "first steps program" means the program established under IC 12-17-15 and 20 U.S.C. 1431 et seq. to meet the needs of:

- (1) children who are eligible for early intervention services; and
- (2) their families.

The term includes the coordination of all available federal, state, local, and private resources available to provide early intervention services within Indiana.

**Sec. 2.** An employee health plan that provides coverage for early intervention services shall reimburse the first steps program for payments made by the program for early intervention services that are covered under the employee health plan.

**Sec. 3.** The reimbursement required under section 2 of this chapter is limited to an annual maximum benefit of three thousand five hundred dollars (\$3,500) per first steps child.

**Sec. 4.** The reimbursement required under section 2 of this chapter may not be applied to any annual or aggregate lifetime limit on the first steps child's coverage under the employee health plan.

**Sec. 5.** The first steps program may pay required deductibles, copayments, or other out-of-pocket expenses for a first steps child directly to a provider. An employee health plan shall apply any



payments made by the first steps program to the employee health plan's deductibles, copayments, or other out-of-pocket expenses according to the terms and conditions of the employee health plan.

SECTION 13. IC 27-8-27 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

**Chapter 27. Coverage for Services to Infants and Toddlers With Disabilities**

**Sec. 1.** For purposes of this chapter, "early intervention services" means services provided to a first steps child under IC 12-17-15-3 and 20 U.S.C. 1432(4).

**Sec. 2.** For purposes of this chapter, "first steps child" means an infant or toddler from birth through two (2) years of age who is enrolled in the Indiana first steps program and is an insured.

**Sec. 3.** As used in this chapter, "first steps program" means the program established under IC 12-17-15 and 20 U.S.C. 1431 et seq. to meet the needs of:

- (1) children who are eligible for early intervention services; and
- (2) their families.

The term includes the coordination of all available federal, state, local, and private resources available to provide early intervention services within Indiana.

**Sec. 4. (a)** For purposes of this chapter, "health insurance plan" means any:

- (1) hospital or medical expense incurred policy or certificate;
- (2) hospital or medical service plan contract; or
- (3) health maintenance organization subscriber contract;

provided to an insured.

**(b)** The term does not include the following:

- (1) Accident-only, credit, dental, Medicare supplement, long term care, or disability income insurance.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Worker's compensation or similar insurance.
- (4) Automobile medical payment insurance.
- (5) A specified disease policy issued as an individual policy.
- (6) A limited benefit health insurance plan issued as an individual policy.
- (7) A short term insurance plan that:
  - (A) may not be renewed; and
  - (B) has a duration of not more than six (6) months.
- (8) A policy that provides a stipulated daily, weekly, or



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**monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.**

**Sec. 5. As used in this chapter, "insured" means an individual covered by a health insurance plan.**

**Sec. 6. A health insurance plan that provides coverage for early intervention services shall reimburse the first steps program for payments made by the program for early intervention services that are covered under the health insurance plan.**

**Sec. 7. The reimbursement required under section 6 of this chapter is limited to an annual maximum benefit of three thousand five hundred dollars (\$3,500) per first steps child.**

**Sec. 8. The reimbursement required under section 6 of this chapter may not be applied to any annual or aggregate lifetime limit on the first steps child's coverage under the health insurance plan.**

**Sec. 9. The first steps program may pay required deductibles, copayments, or other out-of-pocket expenses for a first steps child directly to a provider. An insurer (as defined in IC 27-8-14.5-3) shall apply any payments made by the first steps program to the health insurance plan's deductibles, copayments, or other out-of-pocket expenses according to the terms and conditions of the health insurance plan.**

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