

HOUSE BILL No. 1131

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. Increases the monthly personal needs allowance to at least \$60 beginning July 1, 1999, for: (1) elderly, blind, and disabled individuals residing in county homes who receive residential care assistance from the state; (2) other individuals receiving residential care assistance from the state who reside in room and board facilities; (3) Medicaid eligible individuals receiving care in hospitals or nursing facilities; and (4) Medicaid eligible individuals residing in community residential facilities for the developmentally disabled. (Current law provides that the monthly personal needs allowance for these individuals may not be less than \$28.50 or more than \$35.)

Effective: July 1, 1999.

Frenz

January 6, 1999, read first time and referred to Committee on Ways and Means.

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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.

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HOUSE BILL No. 1131



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 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) An individual
- 3 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



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 be less than twenty-eight dollars and fifty cents~~
 11 ~~(\$28.50) and not more than thirty-five sixty dollars (\$35) (\$60)~~
 12 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) In addition to the amount that may be retained as a personal
 17 allowance under this section, an individual is allowed to retain an
 18 amount equal to the individual's state and local income tax liability.
 19 The amount that may be retained during a month may not exceed
 20 one-third (1/3) of the individual's state and local income tax liability for
 21 the calendar quarter in which the month occurs. This amount is exempt
 22 from income eligibility consideration by the division. The amount
 23 retained shall be used by the individual to pay state or local income
 24 taxes owed.

25 (f) The division of disability, aging, and rehabilitative services, in
 26 cooperation with the state department of health taking into account
 27 licensure requirements under IC 16-28, shall adopt rules under
 28 IC 4-22-2 governing the reimbursement to facilities under this section.
 29 The rules must be designed to determine the costs that must be incurred
 30 by efficiently and economically operated facilities to provide room,
 31 board, laundry, and other services, along with minimal administrative
 32 direction to individuals who receive residential care in the facilities
 33 under this section. A rule adopted under this subsection by:

34 (1) the division; or

35 (2) the state department of health;

36 must conform to the rules for residential care facilities that are licensed
 37 under IC 16-28.

38 (g) A rate established under this section may be appealed according
 39 to the procedures under IC 4-21.5.

40 (h) The division shall annually review each facility's rate using the
 41 following:

42 (1) Generally accepted accounting principles.



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1 (2) The costs incurred by efficiently and economically operated
 2 facilities in order to provide care and services in conformity with
 3 quality and safety standards and applicable laws and rules.

4 SECTION 2. IC 12-10-6-2 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) An individual
 6 who is incapable of residing in the individual's own home may apply
 7 for residential care assistance under this section. The determination of
 8 eligibility for residential care assistance is the responsibility of the
 9 division. Except as provided in subsections (f) and (h), an individual is
 10 eligible for residential care assistance if the division determines that the
 11 individual:

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

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

22 (c) A service coordinator employed by the division may:

- 23 (1) evaluate a person seeking admission to a home or facility
 24 under subsection (a); or
 25 (2) evaluate a person who has been admitted to a home or facility
 26 under subsection (a), including a review of the existing
 27 evaluations in the person's record at the home or facility.

28 If the service coordinator determines the person evaluated under this
 29 subsection is mentally retarded, the service coordinator may
 30 recommend an alternative placement for the person.

31 (d) Except as provided in section 5 of this chapter, residential care
 32 consists of only room, board, and laundry, along with minimal
 33 administrative direction. State financial assistance may be provided for
 34 such care in a boarding or residential home of the applicant's choosing
 35 that is licensed under IC 16-28 or a Christian Science facility listed and
 36 certified by the Commission for Accreditation of Christian Science
 37 Nursing Organizations/Facilities, Inc., that meets certain life safety
 38 standards considered necessary by the state fire marshal. Payment for
 39 such care shall be made to the provider of the care according to
 40 division directives and supervision. The amount of nonmedical
 41 assistance to be paid on behalf of a recipient living in a boarding home,
 42 residential home, or Christian Science facility shall be based on the

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1 daily rate established by the division. The rate for facilities that are
 2 referred to in this section and licensed under IC 16-28 may not exceed
 3 an upper rate limit established by a rule adopted by the division. The
 4 recipient may retain from the recipient's income a personal allowance
 5 in an amount to be established by the division, but not less than
 6 ~~twenty-eight dollars and fifty cents (\$28.50) or more than thirty-five~~
 7 ~~sixty dollars (\$35) (\$60)~~ monthly. This amount is exempt from income
 8 eligibility consideration by the division and may be exclusively used by
 9 the recipient for the recipient's personal needs. However, if the
 10 recipient's income is less than the amount of the personal allowance,
 11 the division shall pay to the recipient the difference between the
 12 amount of the personal allowance and the recipient's income. A reserve
 13 or an accumulated balance from such a source, together with other
 14 sources, may not be allowed to exceed the state's resource allowance
 15 allowed for adults eligible for state supplemental assistance or
 16 Medicaid as established by the rules of the office of Medicaid policy
 17 and planning.

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

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

38 (g) The personal allowance for one (1) month for an individual
 39 described in subsection (a) whose employment is part of the
 40 individual's personal habilitation plan or who is working in a sheltered
 41 workshop or day activity center is the amount that an individual would
 42 be entitled to retain under subsection (d) plus an amount equal to



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1 one-half (1/2) of the remainder of:

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

3 (2) the sum of:

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

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

9 (C) transportation expenses for that month.

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

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

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

24 SECTION 3. IC 12-15-7-2 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. ~~Not less than~~
26 ~~twenty-eight dollars and fifty cents (\$28.50) or more than thirty-five~~
27 ~~dollars (\$35) monthly~~ **The office may be shall exempt from income**
28 **eligibility consideration not less than sixty dollars (\$60) each month.**

29 SECTION 4. IC 12-15-32-6 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. The office shall
31 allow a resident of a facility who is receiving Medicaid to retain a
32 personal allowance of at least ~~twenty-eight dollars and fifty cents~~
33 ~~(\$28.50) but not more than fifty sixty~~ **dollars (\$50) (\$60) each month.**

34 SECTION 5. [EFFECTIVE JULY 1, 1999] (a) **Before December**
35 **31, 1999, the office of Medicaid policy and planning shall amend**
36 **405 IAC 2-3-17 by changing the amount of the monthly personal**
37 **needs allowance specified in 405 IAC 2-3-17(c)(2) from thirty**
38 **dollars (\$30) to sixty dollars (\$60).**

39 (b) **This SECTION expires June 30, 2000.**

40 SECTION 6. [EFFECTIVE JULY 1, 1999] (a) **Before December**
41 **31, 1999, the office of Medicaid policy and planning shall amend**
42 **405 IAC 2-3-21 by changing the amount of the monthly personal**

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- 1 **needs allowance specified in 405 IAC 2-3-21(2) from thirty dollars**
- 2 **(\$30) to sixty dollars (\$60).**
- 3 **(b) This SECTION expires June 30, 2000.**

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