

# HOUSE BILL No. 1657

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-7-2; IC 12-10-16; IC 12-15-35-28.

**Synopsis:** Senior citizen supplemental prescription plan. Creates the pharmaceutical assistance for the aged and disabled program. Allows an Indiana resident who is eligible for the program to pay a ten dollar copayment for various prescription drugs. Provides the division of disability, aging, and rehabilitative services with the authority to restrict the supply of prescription drugs under certain circumstances. Requires a pharmacy to provide prescription price information to the division before a pharmacy may be paid for a prescription claim. Requires the division of disability, aging, and rehabilitative services to submit an annual report that contains an evaluation of the program to the general assembly. Establishes penalties for violations of the program.

**Effective:** July 1, 1999.

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January 21, 1999, read first time and referred to Committee on Public Health.

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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.

## HOUSE BILL No. 1657

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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 12-7-2-63.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 1999]: **Sec. 63.5. "Diabetic testing materials", for purposes of**  
4 **IC 12-10-16, has the meaning set forth in IC 12-10-16-1.**
- 5 SECTION 2. IC 12-7-2-65 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 65. "Disabled" **refers**  
7 **to the following:**
- 8 (1) For purposes of IC 12-10-10, ~~has~~ the meaning set forth in  
9 IC 12-10-10-3.
- 10 (2) **For purposes of IC 12-10-16, the meaning set forth in**  
11 **IC 12-10-16-2.**
- 12 SECTION 3. IC 12-7-2-144.5 IS ADDED TO THE INDIANA  
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
14 [EFFECTIVE JULY 1, 1999]: **Sec. 144.5. "Prescription drugs", for**  
15 **purposes of IC 12-10-16, has the meaning set forth in**  
16 **IC 12-10-16-3.**
- 17 SECTION 4. IC 12-7-2-146 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 146. "Program" refers  
2 to the following:

3 (1) For purposes of IC 12-10-7, the adult guardianship services  
4 program established by IC 12-10-7-5.

5 (2) For purposes of IC 12-10-10, the meaning set forth in  
6 IC 12-10-10-5.

7 **(3) For purposes of IC 12-10-16, the meaning set forth in**  
8 **IC 12-10-16-4.**

9 SECTION 5. IC 12-7-2-156.5 IS ADDED TO THE INDIANA  
10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 1999]: **Sec. 156.5. "Reasonable cost", for**  
12 **purposes of IC 12-10-16, has the meaning set forth in**  
13 **IC 12-10-16-5.**

14 SECTION 6. IC 12-7-2-164 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 164. "Resident" has the  
16 following meaning:

17 (1) For purposes of IC 12-10-15, the meaning set forth in  
18 IC 12-10-15-5.

19 **(2) For purposes of IC 12-10-16, the meaning set forth in**  
20 **IC 12-10-16-6.**

21 **(3) For purposes of IC 12-16, except IC 12-16-1, an individual**  
22 **who has actually resided in Indiana for at least ninety (90) days.**

23 ~~(4)~~ **(4) For purposes of IC 12-20-8, the meaning set forth in**  
24 **IC 12-20-8-1.**

25 ~~(5)~~ **(5) For purposes of IC 12-24-5, the meaning set forth in**  
26 **IC 12-24-5-1.**

27 SECTION 7. IC 12-10-16 IS ADDED TO THE INDIANA CODE  
28 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 1999]:

30 **Chapter 16. Pharmaceutical Assistance to the Aged and**  
31 **Disabled**

32 **Sec. 1. As used in this chapter, "diabetic testing materials"**  
33 **includes the following:**

34 **(1) Blood glucose reagent strips that can be visually read.**

35 **(2) Urine monitoring strips.**

36 **(3) Tapes.**

37 **(4) Tablets.**

38 **(5) Bloodletting devices.**

39 **(6) Lancets.**

40 **The term does not include electronically monitored devices.**

41 **Sec. 2. As used in this chapter, "disabled" refers to an individual**  
42 **with a severe chronic disability that is attributable to a mental or**



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1 physical impairment or combination of mental and physical  
2 impairments that is likely to continue indefinitely.

3 **Sec. 3.** As used in this chapter, "prescription drugs" means all  
4 legend drugs, (as defined in IC 16-18-2-199) including the  
5 following:

- 6 (1) Any interchangeable drug products, including generic  
7 drug products, approved by the drug utilization review board.  
8 (2) Diabetic testing materials.  
9 (3) Insulin, insulin syringes, and insulin needles.

10 **Sec. 4.** As used in this chapter, "program" refers to the  
11 pharmaceutical assistance to the aged and disabled program  
12 established by section 7 of this chapter.

13 **Sec. 5.** As used in this chapter, "reasonable cost" means the  
14 maximum allowable cost of prescription drugs and dispensing fee,  
15 as determined by the division. However, in the case of diabetic  
16 testing materials, the maximum allowable cost of prescription  
17 drugs and dispensing fee equals the lesser of:

- 18 (1) the manufacturer's suggested retail selling price; or  
19 (2) the pharmacy's usual over the counter price charged to  
20 other persons in the community.

21 **Sec. 6. (a)** As used in this chapter, "resident" means an  
22 individual legally domiciled within Indiana for a period of thirty  
23 (30) days immediately preceding the date of application for  
24 inclusion in the program.

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

- 26 (1) An individual who maintains only seasonal or temporary  
27 residence within Indiana.  
28 (2) An individual who is absent from Indiana for at least  
29 twelve (12) months.

30 **Sec. 7.** The pharmaceutical assistance for the aged and disabled  
31 program is established. The division shall administer the program.

32 **Sec. 8. (a)** To be eligible for assistance under the program a  
33 resident:

34 (1) must have:

- 35 (A) an annual income of not more than fifteen thousand  
36 five hundred dollars (\$15,500), if single; or  
37 (B) a combined annual income of not more than nineteen  
38 thousand five hundred dollars (\$19,500), if married;

39 (2) must not be:

- 40 (A) covered by Medicaid under IC 12-15; or  
41 (B) wholly covered for prescription drug costs by another  
42 plan of assistance or insurance; and



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1           **(3) must be:**

2           **(A) a recipient of disability insurance benefits under Title**  
 3           **II of the Social Security Act (42 U.S.C. 401 et seq.); or**

4           **(B) at least sixty-five (65) years of age.**

5           **(b) For purposes of this section, annual income does not include**  
 6           **gain from the sale of a principal residence that is excluded from**  
 7           **gross income under 26 U.S.C. 121.**

8           **(c) Beginning January 1, 2000, and annually thereafter, the**  
 9           **income eligibility limits provided in subsection (a) must increase by**  
 10           **the amount of the maximum Social Security benefit cost of living**  
 11           **increase for that year for single and married persons respectively.**

12           **Sec. 9. Funds received from the federal government under**  
 13           **sections 105 and 106 of the Civil Liberties Act of 1988 may not be**  
 14           **counted as income for the purpose of determining eligibility for the**  
 15           **program.**

16           **Sec. 10. (a) The program consists of payments to pharmacies for**  
 17           **the reasonable cost of prescription drugs that exceed a ten dollar**  
 18           **(\$10) copayment and that are provided to eligible persons.**

19           **(b) A copayment must be paid in full by each eligible person to**  
 20           **the pharmacist at the time of each purchase of prescription drugs**  
 21           **and may not be waived, discounted, or rebated in whole or in part.**

22           **(c) The division may restrict the supply of initial prescriptions**  
 23           **under the program to less than a thirty (30) day supply to reduce**  
 24           **waste and inappropriate drug utilization. Subsequently, the**  
 25           **division may limit prescription drugs used in the treatment of**  
 26           **acute care medical conditions to an amount that does not exceed a**  
 27           **thirty (30) day supply. The division may not allow more than a**  
 28           **sixty (60) day supply or one hundred (100) unit doses, whichever**  
 29           **is greater, of prescription drugs used in the treatment of a chronic**  
 30           **maintenance condition.**

31           **(d) Whenever an interchangeable drug product, including a**  
 32           **generic drug product, approved by the drug utilization review**  
 33           **board is available for the written prescription, an eligible person**  
 34           **shall either:**

35           **(1) purchase an interchangeable drug product, including a**  
 36           **generic drug product, that is equal to or less than the**  
 37           **maximum allowable cost, with a ten dollar (\$10) copayment;**  
 38           **or**

39           **(2) purchase the prescribed drug product that is higher in cost**  
 40           **than the maximum allowable cost and pay the difference**  
 41           **between the two (2) drug products, in addition to the ten**  
 42           **dollar (\$10) copayment, unless the health care provider**

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1           prescribing the drug product specifically indicates that  
2           substitution is not permissible, in which case an eligible  
3           person may purchase the prescribed drug product with a ten  
4           dollar (\$10) copayment.

5           **Sec. 11.** Payments to pharmacies made by the program in  
6           accordance with section 10 of this chapter may not be made unless,  
7           at the time of each prescription drug purchase for which a  
8           pharmacy submits a claim, the pharmacy prominently displays on  
9           the receipt provided with the prescription drug the usual price  
10          charged to other persons in the community by the pharmacy.

11          **Sec. 12.** An eligible person whose prescription drug costs are  
12          covered in part by another plan of assistance or insurance may be  
13          required to receive reduced assistance under the program.

14          **Sec. 13.** The division shall adopt rules under IC 4-22-2 to  
15          provide for a system of payments or reimbursements and a system  
16          for determining eligibility of persons for the program, including:

17           (1) provisions for submission of proof of actual and  
18           anticipated annual income; and

19           (2) evidence of complete or partial coverage of prescription  
20           drug costs by another plan of assistance or insurance plans.

21          **Sec. 14.** The cost of a prescription may not be reimbursed by the  
22          program unless the prescription contains the name and address or  
23          identification number of the eligible person.

24          **Sec. 15.** The division shall include on identification cards used  
25          in the program a conspicuous notice of the penalties for violating  
26          this chapter.

27          **Sec. 16.** (a) An eligible person shall, upon the submission of an  
28          application and proof of expenditure as prescribed by the division,  
29          be reimbursed for the cost of all prescription drugs purchased by  
30          the person under section 10(d)(2) of this chapter, minus a ten dollar  
31          (\$10) copayment for each prescription during the period:

32           (1) beginning thirty (30) days after the person's properly  
33           completed application is received by the division; and

34           (2) ending on the date when the person receives proof of  
35           eligibility from the division.

36          (b) Reimbursement may not be made under this chapter for a  
37          prescription drug purchased before July 1, 1999.

38          **Sec. 17.** The division shall provide a notice of the availability of  
39          reimbursement under the program and an application form to  
40          every eligible person.

41          **Sec. 18.** Before November 1, the division shall:

42           (1) evaluate the program; and

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1           **(2) submit a report that contains evaluation information to the**  
 2           **general assembly.**

3           **Sec. 19. (a) A person who knowingly or intentionally violates**  
 4           **this chapter commits a Class A misdemeanor.**

5           **(b) An eligible person who violates this chapter is subject to:**

6           **(1) suspension of the person's eligibility for the program for**  
 7           **one (1) year for the first offense; and**

8           **(2) permanent revocation of the person's eligibility for a**  
 9           **second offense.**

10          SECTION 8. IC 12-15-35-28 IS AMENDED TO READ AS  
 11          FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 28. The board has the  
 12          following duties:

13               (1) The adoption of rules to carry out this chapter, in accordance  
 14               with the provisions of IC 4-22-2 and subject to any office  
 15               approval that is required by the federal Omnibus Budget  
 16               Reconciliation Act of 1990 under Public Law 101-508 and its  
 17               implementing regulations.

18               (2) The implementation of a Medicaid retrospective and  
 19               prospective DUR program as outlined in this chapter, including  
 20               the approval of software programs to be used by the pharmacist  
 21               for prospective DUR and recommendations concerning the  
 22               provisions of the contractual agreement between the state and any  
 23               other entity that will be processing and reviewing Medicaid drug  
 24               claims and profiles for the DUR program under this chapter.

25               (3) The development and application of the predetermined criteria  
 26               and standards for appropriate prescribing to be used in  
 27               retrospective and prospective DUR to ensure that such criteria  
 28               and standards for appropriate prescribing are based on the  
 29               compendia and developed with professional input with provisions  
 30               for timely revisions and assessments as necessary.

31               (4) The development, selection, application, and assessment of  
 32               interventions for physicians, pharmacists, and patients that are  
 33               educational and not punitive in nature.

34               (5) The publication of an annual report that must be subject to  
 35               public comment before issuance to the federal Department of  
 36               Health and Human Services and to the Indiana legislative council  
 37               by December 1 of each year.

38               (6) The development of a working agreement for the board to  
 39               clarify the areas of responsibility with related boards or agencies,  
 40               including the following:

41                       (A) The Indiana board of pharmacy.

42                       (B) The medical licensing board of Indiana.

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- 1 (C) The SURS staff.
- 2 (7) The establishment of a grievance and appeals process for
- 3 physicians or pharmacists under this chapter.
- 4 (8) The publication and dissemination of educational information
- 5 to physicians and pharmacists regarding the board and the DUR
- 6 program, including information on the following:
- 7 (A) Identifying and reducing the frequency of patterns of
- 8 fraud, abuse, gross overuse, or inappropriate or medically
- 9 unnecessary care among physicians, pharmacists, and
- 10 recipients.
- 11 (B) Potential or actual severe or adverse reactions to drugs.
- 12 (C) Therapeutic appropriateness.
- 13 (D) Overutilization or underutilization.
- 14 (E) Appropriate use of generic drugs.
- 15 (F) Therapeutic duplication.
- 16 (G) Drug-disease contraindications.
- 17 (H) Drug-drug interactions.
- 18 (I) Incorrect drug dosage and duration of drug treatment.
- 19 (J) Drug allergy interactions.
- 20 (K) Clinical abuse and misuse.
- 21 (9) The adoption and implementation of procedures designed to
- 22 ensure the confidentiality of any information collected, stored,
- 23 retrieved, assessed, or analyzed by the board, staff to the board, or
- 24 contractors to the DUR program that identifies individual
- 25 physicians, pharmacists, or recipients.
- 26 (10) The implementation of additional drug utilization review
- 27 with respect to drugs dispensed to residents of nursing facilities
- 28 shall not be required if the nursing facility is in compliance with
- 29 the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR
- 30 483.60.
- 31 **(11) Advisement of the division of disability, aging, and**
- 32 **rehabilitative services in the operation of the pharmaceutical**
- 33 **assistance for the aged and disabled program under**
- 34 **IC 12-10-16.**

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