
HOUSE BILL No. 1033

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-12-1-14.3; IC 12-7-2; IC 12-10-16; IC 12-13-15; IC 12-15-35-28; IC 12-23-1-6.5.

Synopsis: Tobacco settlement trust fund. Creates the tobacco settlement trust fund. Establishes the employer sponsored health plan assistance program and the pharmaceutical assistance for the aged and disabled program. Specifies that interest that accrues in the tobacco settlement trust fund is annually appropriated for uses under the employer sponsored health plan assistance program, the pharmaceutical assistance for the aged and disabled program, and education, prevention, and treatment programs for substance abuse. Requires annual reporting to the general assembly on the use of the funding.

Effective: July 1, 2000.

Goeglein, Crosby, Becker, Scholer

January 10, 2000, read first time and referred to Committee on Public Health.

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Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE BILL No. 1033



A BILL FOR AN ACT to amend the Indiana Code concerning human services and to make an appropriation.

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

1 SECTION 1. IC 4-12-1-14.3, AS ADDED BY P.L.273-1999,
2 SECTION 232, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2000]: Sec. 14.3. (a) **As used in this section,**
4 **"fund" refers to the tobacco settlement trust fund created by**
5 **subsection (b).**

6 (b) There is hereby created the tobacco settlement **trust fund**. ~~for~~
7 The ~~purpose of depositing fund~~ **consists of** money received by the state
8 from the master settlement agreement with the United States' tobacco
9 product manufacturers. The fund shall be administered by the budget
10 agency. The treasurer of state shall invest the money in the fund not
11 currently needed to meet the obligations of the fund in the same
12 manner as other public money is invested. Interest that accrues from
13 these investments shall be deposited in the fund. **Interest that accrues**
14 **in the fund is annually appropriated for the purposes described in**
15 **this section. The principal in the fund may not be withdrawn from**
16 **the fund.** Money in the fund at the end of the state fiscal year does not
17 revert to the state general fund.



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1 (c) Interest that accrues from money in the fund may be used as
2 follows:

3 (1) One-third (1/3) for purposes of the pharmaceutical
4 assistance for the aged and disabled program established by
5 IC 12-10-16.

6 (2) One-third (1/3) for purposes of the employer sponsored
7 health plan assistance program established by IC 12-13-15.

8 (3) One-third (1/3) for education, prevention, and treatment
9 programs for addictions to:

10 (A) alcohol;

11 (B) tobacco; and

12 (C) drugs that are illegal to distribute under state law.

13 Not more than two percent (2%) of the funds appropriated under
14 this section may be used for administrative purposes.

15 (d) Money expended from the fund:

16 (1) is in addition to; and

17 (2) may not be used to supplant;

18 existing local, state, or federal sources of funding for the programs
19 specified under subsection (c).

20 SECTION 2. IC 12-7-2-63.5 IS ADDED TO THE INDIANA CODE
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
22 1, 2000]: **Sec. 63.5. "Diabetic testing materials", for purposes of**
23 **IC 12-10-16, has the meaning set forth in IC 12-10-16-1.**

24 SECTION 3. IC 12-7-2-65 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 65. "Disabled" refers**
26 **to the following:**

27 (1) For purposes of IC 12-10-10, ~~has~~ the meaning set forth in
28 IC 12-10-10-3.

29 (2) **For purposes of IC 12-10-16, the meaning set forth in**
30 **IC 12-10-16-2.**

31 SECTION 4. IC 12-7-2-74.7 IS ADDED TO THE INDIANA CODE
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
33 1, 2000]: **Sec. 74.7. "Eligible employee", for purposes of**
34 **IC 12-13-15, has the meaning set forth in IC 12-13-15-1.**

35 SECTION 5. IC 12-7-2-76, AS AMENDED BY P.L.128-1999,
36 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2000]: **Sec. 76. (a) "Eligible individual", for purposes of**
38 **IC 12-10-10, has the meaning set forth in IC 12-10-10-4.**

39 (b) "Eligible individual" has the meaning set forth in
40 IC 12-14-18-1.5 for purposes of the following:

41 (1) IC 12-10-6.

42 (2) IC 12-14-2.

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- 1 (3) IC 12-14-18.
 2 (4) IC 12-14-19.
 3 (5) IC 12-15-2.
 4 (6) IC 12-15-3.
 5 (7) IC 12-16-3.
 6 (8) IC 12-17-1.
 7 (9) IC 12-20-5.5.

8 (c) "Eligible individual", for purposes of IC 12-10-16, has the
 9 meaning set forth in IC 12-10-16-3.

10 SECTION 6. IC 12-7-2-76.7 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2000]: **Sec. 76.7. "Employer sponsored health plan", for**
 13 **purposes of IC 12-13-15, has the meaning set forth in**
 14 **IC 12-13-15-2.**

15 SECTION 7. IC 12-7-2-144.5 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2000]: **Sec. 144.5. "Prescription drugs", for**
 18 **purposes of IC 12-10-16, has the meaning set forth in**
 19 **IC 12-10-16-4.**

20 SECTION 8. IC 12-7-2-146, AS AMENDED BY P.L.273-1999,
 21 SECTION 166, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2000]: Sec. 146. "Program" refers to the
 23 following:

- 24 (1) For purposes of IC 12-10-7, the adult guardianship services
 25 program established by IC 12-10-7-5.
 26 (2) For purposes of IC 12-10-10, the meaning set forth in
 27 IC 12-10-10-5.
 28 (3) **For purposes of IC 12-10-16, the meaning set forth in**
 29 **IC 12-10-16-5.**
 30 (4) For purposes of IC 12-17.6, the meaning set forth in
 31 IC 12-17.6-1-5.

32 SECTION 9. IC 12-7-2-156.5 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2000]: **Sec. 156.5. "Reasonable cost", for**
 35 **purposes of IC 12-10-16, has the meaning set forth in**
 36 **IC 12-10-16-6.**

37 SECTION 10. IC 12-7-2-164 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 164. "Resident" has the
 39 following meaning:

- 40 (1) For purposes of IC 12-10-15, the meaning set forth in
 41 IC 12-10-15-5.
 42 (2) **For purposes of IC 12-10-16, the meaning set forth in**

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IC 12-10-16-7.

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

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

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

SECTION 11. IC 12-10-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 16. Pharmaceutical Assistance for the Aged and Disabled

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

- (1) Blood glucose reagent strips that can be visually read.
- (2) Urine monitoring strips.
- (3) Tapes.
- (4) Tablets.
- (5) Bloodletting devices.
- (6) Lancets.

The term does not include electronically monitored devices.

Sec. 2. As used in this chapter, "disabled" means an individual with a severe chronic disability that is attributable to a mental or physical impairment, or a combination of mental and physical impairments, that is likely to continue indefinitely.

Sec. 3. (a) As used in this chapter, "eligible individual" means a resident who:

- (1) has:
 - (A) an annual income of not more than fifteen thousand five hundred dollars (\$15,500), if single; or
 - (B) a combined annual income of not more than nineteen thousand five hundred dollars (\$19,500), if married;
- (2) is not:
 - (A) covered by Medicaid under IC 12-15; or
 - (B) wholly covered for prescription drug costs by another plan of assistance or insurance; and
- (3) is:
 - (A) a recipient of disability insurance benefits under Title II of the federal Social Security Act (42 U.S.C. 401 et seq.); or
 - (B) at least sixty-five (65) years of age.

(b) For purposes of this section, annual income does not include



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1 gain from the sale of a principal residence that is excluded from
2 gross income under 26 U.S.C. 121.

3 (c) Beginning January 1, 2001, and annually thereafter, the
4 income eligibility limits provided in subsection (a) must increase by
5 the amount of the maximum Social Security benefit cost of living
6 increase for that year for single and married persons respectively.

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

10 (1) Any interchangeable drug products, including generic
11 drug products, approved by the drug utilization review board
12 established by IC 12-15-35.

13 (2) Diabetic testing materials.

14 (3) Insulin, insulin syringes, and insulin needles.

15 Sec. 5. As used in this chapter, "program" refers to the
16 pharmaceutical assistance for the aged and disabled program
17 established by section 8 of this chapter.

18 Sec. 6. As used in this chapter, "reasonable cost" means the
19 maximum allowable cost of prescription drugs and dispensing fee,
20 as determined by the division. However, in the case of diabetic
21 testing materials, the maximum allowable cost of prescription
22 drugs and dispensing fee equals the lesser of:

23 (1) the manufacturer's suggested retail selling price; or

24 (2) the pharmacy's usual over the counter price charged to
25 other individuals in the community.

26 Sec. 7. (a) As used in this chapter, "resident" means an
27 individual legally domiciled within Indiana for thirty (30) days
28 immediately preceding the date of application for inclusion in the
29 program.

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

31 (1) An individual who maintains only seasonal or temporary
32 residence within Indiana.

33 (2) An individual who is absent from Indiana for at least
34 twelve (12) months.

35 Sec. 8. The pharmaceutical assistance for the aged and disabled
36 program is established. The division shall administer the program.

37 Sec. 9. The following may not be counted as income to determine
38 eligibility for the program:

39 (1) Funds received from the federal government under
40 sections 105 and 106 of the federal Civil Liberties Act of 1988.

41 (2) Funds or property received as a Holocaust victim's
42 settlement payment (as defined in IC 12-14-18-1.7).

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1 **Sec. 10. (a)** The program consists of payments to pharmacies for
2 the reasonable cost of prescription drugs that exceed a ten dollar
3 (\$10) copayment and that are provided to eligible individuals.

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

7 **(c)** The division may restrict the supply of initial prescriptions
8 under the program to less than a thirty (30) day supply to reduce
9 waste and inappropriate drug utilization. The division may limit
10 refills of prescription drugs used in the treatment of acute care
11 medical conditions to an amount that does not exceed a thirty (30)
12 day supply. The division may not allow more than a sixty (60) day
13 supply or one hundred (100) unit doses, whichever is greater, of
14 prescription drugs used in the treatment of a chronic maintenance
15 condition.

16 **(d)** Whenever an interchangeable drug product, including a
17 generic drug product, approved by the drug utilization review
18 board established by IC 12-15-35 is available for the written
19 prescription, an eligible individual shall either:

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

24 **(2)** purchase the prescribed drug product that is higher in cost
25 than the maximum allowable cost and pay the difference
26 between the two (2) drug products, in addition to the ten
27 dollar (\$10) copayment, unless the health care provider
28 prescribing the drug product specifically indicates that
29 substitution is not permissible, in which case an eligible
30 individual may purchase the prescribed drug product with a
31 ten dollar (\$10) copayment.

32 **Sec. 11.** Payments made by the program to pharmacies in
33 accordance with section 10 of this chapter may not be made unless,
34 at the time of each prescription drug purchase for which a
35 pharmacy submits a claim, the pharmacy prominently displays on
36 the receipt provided with the prescription drug the usual price
37 charged by the pharmacy to other individuals in the community.

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

41 **Sec. 13.** The division shall adopt rules under IC 4-22-2 to
42 provide for a system of payments or reimbursements from funds

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1 appropriated from the tobacco settlement trust fund created by
 2 IC 4-12-1-14.3 and a system for determining eligibility of
 3 individuals for the program, including:

- 4 (1) provisions for submission of proof of actual and
 5 anticipated annual income; and
 6 (2) evidence of complete or partial coverage of prescription
 7 drug costs by another plan of assistance or insurance plans.

8 **Sec. 14.** The cost of a prescription may not be reimbursed by the
 9 program unless the prescription contains the name and address or
 10 identification number of the eligible individual.

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

14 **Sec. 16. (a)** The program shall reimburse an eligible individual,
 15 upon the submission of an application and proof of expenditure as
 16 prescribed by the division, for the cost of all prescription drugs
 17 purchased by the individual under section 10(d)(2) of this chapter,
 18 minus a ten dollar (\$10) copayment for each prescription during
 19 the period:

- 20 (1) beginning thirty (30) days after the individual's properly
 21 completed application is received by the division; and
 22 (2) ending on the date when the individual receives proof of
 23 eligibility from the division.

24 **(b)** The program may not reimburse an eligible individual under
 25 this chapter for a prescription drug purchased before July 1, 2000.

26 **Sec. 17.** The division shall provide a notice of the availability of
 27 reimbursement under the program and an application form to
 28 every eligible individual.

29 **Sec. 18.** Before November 1 of each year, the division shall:

- 30 (1) evaluate the program; and
 31 (2) submit a report that contains evaluation information to the
 32 general assembly.

33 **Sec. 19. (a)** An individual who knowingly or intentionally
 34 violates this chapter commits a Class A misdemeanor.

35 **(b)** An eligible individual who violates this chapter is subject to:

- 36 (1) suspension of the eligible individual's eligibility for the
 37 program for one (1) year for the first offense; and
 38 (2) permanent revocation of the eligible individual's eligibility
 39 for a second offense.

40 SECTION 12. IC 12-13-15 IS ADDED TO THE INDIANA CODE
 41 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2000]:



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1 **Chapter 15. Employer Sponsored Health Plan Assistance**
2 **Program**

3 **Sec. 1. As used in this chapter, "eligible employee" means an**
4 **employee, including an individual with a mental or physical**
5 **disability:**

6 **(1) whose family income is less than two hundred fifty percent**
7 **(250%) of the federal income poverty level; and**

8 **(2) who has not been covered under an employer sponsored**
9 **health plan within the previous six (6) months unless the prior**
10 **coverage was involuntarily terminated by a person other than**
11 **the current employer.**

12 **Sec. 2. As used in this chapter, "employer sponsored health**
13 **plan" means:**

14 **(1) a program of self-insurance established and maintained by**
15 **an employer to cover the provision of health care services (as**
16 **defined in IC 27-8-11-1) to employees and dependents of**
17 **employees;**

18 **(2) a group contract entered into or renewed by an employer**
19 **with a health maintenance organization (as defined in**
20 **IC 27-13-1-19) to provide services to employees and**
21 **dependents of employees; or**

22 **(3) a policy of accident and sickness insurance (as defined in**
23 **IC 27-8-5-1) issued or renewed on a group basis to an**
24 **employer to cover the provision of health care services (as**
25 **defined in IC 27-8-11-1) to employees and dependents of**
26 **employees.**

27 **Sec. 3. The employer sponsored health plan assistance program**
28 **is established. The division shall administer the program.**

29 **Sec. 4. The division shall adopt rules under IC 4-22-2 to provide**
30 **for a system of payments or reimbursements from funds**
31 **appropriated from the tobacco settlement trust fund created by**
32 **IC 4-12-1-14.3 to subsidize an employee's share of premiums for**
33 **coverage under an employer sponsored health plan for eligible**
34 **employees.**

35 **Sec. 5. A subsidy may be paid under this chapter only if:**

36 **(1) the employer contributes at least sixty percent (60%) of**
37 **the cost of family coverage under the employer sponsored**
38 **health plan;**

39 **(2) the employer sponsored health plan includes coverage that**
40 **does not impose greater treatment limitations or financial**
41 **requirements for services for mental illness than treatment**
42 **limitations or financial requirements that are imposed on**

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1 coverage provided for services for other illness; and
 2 (3) the family has applied for the full premium contribution
 3 available from the employer.

4 **Sec. 6. Before November 1 of each year, the division shall:**

5 (1) evaluate the program; and
 6 (2) submit a report that contains evaluation information to the
 7 general assembly.

8 SECTION 13. IC 12-15-35-28 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 28. The board has the
 10 following duties:

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

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

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

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

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

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

- 39 (A) The Indiana board of pharmacy.
 40 (B) The medical licensing board of Indiana.
 41 (C) The SURS staff.

42 (7) The establishment of a grievance and appeals process for

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1 physicians or pharmacists under this chapter.

2 (8) The publication and dissemination of educational information
3 to physicians and pharmacists regarding the board and the DUR
4 program, including information on the following:

5 (A) Identifying and reducing the frequency of patterns of
6 fraud, abuse, gross overuse, or inappropriate or medically
7 unnecessary care among physicians, pharmacists, and
8 recipients.

9 (B) Potential or actual severe or adverse reactions to drugs.

10 (C) Therapeutic appropriateness.

11 (D) Overutilization or underutilization.

12 (E) Appropriate use of generic drugs.

13 (F) Therapeutic duplication.

14 (G) Drug-disease contraindications.

15 (H) Drug-drug interactions.

16 (I) Incorrect drug dosage and duration of drug treatment.

17 (J) Drug allergy interactions.

18 (K) Clinical abuse and misuse.

19 (9) The adoption and implementation of procedures designed to
20 ensure the confidentiality of any information collected, stored,
21 retrieved, assessed, or analyzed by the board, staff to the board, or
22 contractors to the DUR program that identifies individual
23 physicians, pharmacists, or recipients.

24 (10) The implementation of additional drug utilization review
25 with respect to drugs dispensed to residents of nursing facilities
26 shall not be required if the nursing facility is in compliance with
27 the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR
28 483.60.

29 **(11) Advisement of the division of disability, aging, and**
30 **rehabilitative services in the operation of the pharmaceutical**
31 **assistance for the aged and disabled program under**
32 **IC 12-10-16.**

33 SECTION 14. IC 12-23-1-6.5 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2000]: **Sec. 6.5. (a) The division shall**
36 **administer the funds annually appropriated under**
37 **IC 4-12-1-14.3(c)(3) for education, prevention, and treatment**
38 **programs of alcohol, tobacco, and illegal drug use.**

39 **(b) Before November 1 of each year, the division shall:**

40 **(1) evaluate the use of funding under this section; and**

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

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1 SECTION 15. [EFFECTIVE JULY 1, 2000] (a) All money
2 remaining in the tobacco settlement fund on June 30, 2000, shall be
3 transferred to the tobacco settlement trust fund created by
4 IC 4-12-1-14.3, as amended by this act, on July 1, 2000.
5 (b) Notwithstanding P.L.273-1999 or IC 4-12-1-14.3, as
6 amended by this act, the appropriations made by P.L.273-1999,
7 SECTION 8, for the state fiscal year beginning July 1, 2000, for
8 CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP)
9 ASSISTANCE and CHILDREN'S HEALTH INSURANCE
10 PROGRAM (CHIP) ADMINISTRATION are payable from the
11 tobacco settlement trust fund created by IC 4-12-1-14.3, as
12 amended by this act.
13 (c) This SECTION expires July 1, 2002.

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