
HOUSE BILL No. 1103

DIGEST OF INTRODUCED BILL

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

Synopsis: Pharmacy assistance program. Creates the tobacco settlement trust fund and specifies that interest from the fund must be used to fund the pharmacy assistance program. Establishes the pharmacy assistance program for eligible individuals. Requires the division of disability, aging, and rehabilitative services to administer the program.

Effective: July 1, 2000.

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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. 1103



A BILL FOR AN ACT to amend the Indiana Code concerning health 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 purposes described in this**
15 **section. The principal in the fund may not be withdrawn from the**
16 **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 must be used
 2 to fund the pharmacy assistance program established by
 3 IC 12-10-16. Not more than two percent (2%) of the funds
 4 appropriated under this section may be used for administrative
 5 purposes.

6 (d) Money expended from the fund:

7 (1) is in addition to; and

8 (2) may not be used to supplant;

9 existing local, state, or federal sources of funding for the program
 10 specified under subsection (c).

11 SECTION 2. IC 12-7-2-63.5 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2000]: **Sec. 63.5. "Diabetic testing materials", for purposes of**
 14 **IC 12-10-16, has the meaning set forth in IC 12-10-16-1.**

15 SECTION 3. IC 12-7-2-76, AS AMENDED BY P.L.128-1999,
 16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2000]: Sec. 76. (a) "Eligible individual", for purposes of
 18 IC 12-10-10, has the meaning set forth in IC 12-10-10-4.

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

21 (1) IC 12-10-6.

22 (2) IC 12-14-2.

23 (3) IC 12-14-18.

24 (4) IC 12-14-19.

25 (5) IC 12-15-2.

26 (6) IC 12-15-3.

27 (7) IC 12-16-3.

28 (8) IC 12-17-1.

29 (9) IC 12-20-5.5.

30 (c) "Eligible individual", for purposes of IC 12-10-16, has the
 31 meaning set forth in IC 12-10-16-2.

32 SECTION 4. IC 12-7-2-144.5 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2000]: **Sec. 144.5. "Prescription drugs", for**
 35 **purposes of IC 12-10-16, has the meaning set forth in**
 36 **IC 12-10-16-3.**

37 SECTION 5. IC 12-7-2-146, AS AMENDED BY P.L.273-1999,
 38 SECTION 166, IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2000]: Sec. 146. "Program" refers to the
 40 following:

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



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- 1 IC 12-10-10-5.
 2 (3) **For purposes of IC 12-10-16, the meaning set forth in**
 3 **IC 12-10-16-4.**
 4 (4) For purposes of IC 12-17.6, the meaning set forth in
 5 IC 12-17.6-1-5.

6 SECTION 6. IC 12-7-2-164 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 164. "Resident" has the
 8 following meaning:

- 9 (1) For purposes of IC 12-10-15, the meaning set forth in
 10 IC 12-10-15-5.
 11 (2) **For purposes of IC 12-10-16, the meaning set forth in**
 12 **IC 12-10-16-5.**
 13 (3) For purposes of IC 12-16, except IC 12-16-1, an individual
 14 who has actually resided in Indiana for at least ninety (90) days.
 15 ~~(3)~~ (4) For purposes of IC 12-20-8, the meaning set forth in
 16 IC 12-20-8-1.
 17 ~~(4)~~ (5) For purposes of IC 12-24-5, the meaning set forth in
 18 IC 12-24-5-1.

19 SECTION 7. IC 12-10-16 IS ADDED TO THE INDIANA CODE
 20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2000]:

22 **Chapter 16. Pharmacy Assistance Program**

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

- 25 (1) **Blood glucose reagent strips that can be visually read.**
 26 (2) **Urine monitoring strips.**
 27 (3) **Tapes.**
 28 (4) **Tablets.**
 29 (5) **Bloodletting devices.**
 30 (6) **Lancets.**

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

32 **Sec. 2. (a) As used in this chapter, "eligible individual" means**
 33 **a resident:**

- 34 (1) **whose annual income is not more than one hundred**
 35 **thirty-five percent (135%) of the federal income poverty level**
 36 **(as defined in IC 12-15-2-1);**
 37 (2) **who is at least:**
 38 (A) **sixty-five (65) years of age; or**
 39 (B) **fifty-five (55) years of age and a recipient of disability**
 40 **insurance benefits under:**
 41 (i) **Title II of the federal Social Security Act (42 U.S.C.**
 42 **401 et seq.); or**



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- 1 (ii) Title XVI of the federal Social Security Act (42 U.S.C.
2 1381-1383); and
- 3 (3) who is not:
- 4 (A) covered by Medicaid under IC 12-15; or
- 5 (B) wholly covered for prescription drug costs by another
6 plan of assistance or insurance.
- 7 (b) As used in this section, "annual income" does not include:
- 8 (1) gain from the sale of a principal residence that is excluded
9 from gross income under 26 U.S.C. 121;
- 10 (2) funds received from the federal government under sections
11 105 and 106 of the federal Civil Liberties Act of 1988 (50 App.
12 U.S.C.A. 1989b-4 and 50 App. U.S.C.A. 1989b-5); or
- 13 (3) funds or property received as a Holocaust victim's
14 settlement payment (as defined in IC 12-14-18-1.7).
- 15 Sec. 3. As used in this chapter, "prescription drugs" means all
16 legend drugs (as defined in IC 16-18-2-199), including the
17 following:
- 18 (1) Any interchangeable drug products, including generic
19 drug products, approved by the drug utilization review board
20 established by IC 12-15-35.
- 21 (2) Diabetic testing materials.
- 22 (3) Insulin, insulin syringes, and insulin needles.
- 23 Sec. 4. As used in this chapter, "program" refers to the
24 pharmacy assistance program established by section 6 of this
25 chapter.
- 26 Sec. 5. (a) As used in this chapter, "resident" means an
27 individual legally domiciled in Indiana for a period of thirty (30)
28 days immediately preceding the date of application for inclusion in
29 the program.
- 30 (b) The term does not include the following:
- 31 (1) An individual who maintains only seasonal or temporary
32 residence in Indiana.
- 33 (2) An individual who is absent from Indiana for at least
34 twelve (12) months.
- 35 Sec. 6. The pharmacy assistance program is established. The
36 division shall administer the program.
- 37 Sec. 7. (a) The program consists of payments to pharmacies for
38 charges for prescription drugs that exceed a:
- 39 (1) three dollar (\$3) copayment for a prescription filled with
40 a generic drug; or
- 41 (2) ten dollar (\$10) copayment for a prescription filled with a
42 brand name drug;



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1 that is provided to an eligible individual.

2 (b) A copayment must be paid in full by an eligible individual to
3 the pharmacist at the time of each purchase of a prescription drug
4 and may not be waived, discounted, or rebated in whole or in part.

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

14 (d) Payments made by the program under this chapter may not
15 exceed one thousand dollars (\$1,000) per eligible individual per
16 year.

17 Sec. 8. Payments made by the program to pharmacies in
18 accordance with section 7 of this chapter may not be made unless,
19 at the time of each prescription drug purchase for which a
20 pharmacy submits a claim, the pharmacy prominently displays on
21 the receipt provided with the prescription drug the usual price
22 charged by the pharmacy to other individuals in the community.

23 Sec. 9. An eligible individual whose prescription drug costs are
24 covered in part by another plan of assistance or insurance may be
25 required to receive reduced assistance under the program.

26 Sec. 10. The division shall adopt rules under IC 4-22-2 to
27 provide for a system of payments or reimbursements from money
28 appropriated from the tobacco settlement trust fund created by
29 IC 4-12-1-14.3 and a system for determining eligibility of
30 individuals for the program, including:

31 (1) provisions for submission of proof of actual and
32 anticipated annual income; and

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

35 Sec. 11. The cost of a prescription may not be reimbursed by the
36 program unless the prescription contains the name and address or
37 identification number of the eligible individual.

38 Sec. 12. The division shall include on identification cards used
39 in the program a conspicuous notice of the penalties for violating
40 this chapter.

41 Sec. 13. (a) The program shall reimburse an eligible individual,
42 upon the submission of an application and proof of expenditure as

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1 prescribed by the division, for the cost of all prescription drugs
 2 purchased by the individual minus the copayment described in
 3 section 7 of this chapter for each prescription during the period:

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

8 (b) The program may not reimburse an eligible individual under
 9 subsection (a) for a prescription drug purchased before July 1,
 10 2000.

11 Sec. 14. The division shall provide a notice of the availability of
 12 reimbursement under the program and an application form to
 13 every eligible individual.

14 Sec. 15. Before November 1 of each year, the division shall:

- 15 (1) evaluate the program; and
 16 (2) submit a report that contains evaluation information to the
 17 legislative council.

18 Sec. 16. (a) An individual who knowingly or intentionally
 19 violates this chapter commits a Class A misdemeanor.

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

- 21 (1) suspension of the eligible individual's eligibility for the
 22 program for one (1) year for the first offense; and
 23 (2) permanent revocation of the eligible individual's eligibility
 24 for a second offense.

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

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

33 (2) The implementation of a Medicaid retrospective and
 34 prospective DUR program as outlined in this chapter, including
 35 the approval of software programs to be used by the pharmacist
 36 for prospective DUR and recommendations concerning the
 37 provisions of the contractual agreement between the state and any
 38 other entity that will be processing and reviewing Medicaid drug
 39 claims and profiles for the DUR program under this chapter.

40 (3) The development and application of the predetermined criteria
 41 and standards for appropriate prescribing to be used in
 42 retrospective and prospective DUR to ensure that such criteria

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- 1 and standards for appropriate prescribing are based on the
 2 compendia and developed with professional input with provisions
 3 for timely revisions and assessments as necessary.
- 4 (4) The development, selection, application, and assessment of
 5 interventions for physicians, pharmacists, and patients that are
 6 educational and not punitive in nature.
- 7 (5) The publication of an annual report that must be subject to
 8 public comment before issuance to the federal Department of
 9 Health and Human Services and to the Indiana legislative council
 10 by December 1 of each year.
- 11 (6) The development of a working agreement for the board to
 12 clarify the areas of responsibility with related boards or agencies,
 13 including the following:
- 14 (A) The Indiana board of pharmacy.
 15 (B) The medical licensing board of Indiana.
 16 (C) The SURS staff.
- 17 (7) The establishment of a grievance and appeals process for
 18 physicians or pharmacists under this chapter.
- 19 (8) The publication and dissemination of educational information
 20 to physicians and pharmacists regarding the board and the DUR
 21 program, including information on the following:
- 22 (A) Identifying and reducing the frequency of patterns of
 23 fraud, abuse, gross overuse, or inappropriate or medically
 24 unnecessary care among physicians, pharmacists, and
 25 recipients.
 26 (B) Potential or actual severe or adverse reactions to drugs.
 27 (C) Therapeutic appropriateness.
 28 (D) Overutilization or underutilization.
 29 (E) Appropriate use of generic drugs.
 30 (F) Therapeutic duplication.
 31 (G) Drug-disease contraindications.
 32 (H) Drug-drug interactions.
 33 (I) Incorrect drug dosage and duration of drug treatment.
 34 (J) Drug allergy interactions.
 35 (K) Clinical abuse and misuse.
- 36 (9) The adoption and implementation of procedures designed to
 37 ensure the confidentiality of any information collected, stored,
 38 retrieved, assessed, or analyzed by the board, staff to the board, or
 39 contractors to the DUR program that identifies individual
 40 physicians, pharmacists, or recipients.
- 41 (10) The implementation of additional drug utilization review
 42 with respect to drugs dispensed to residents of nursing facilities

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1 with respect to drugs dispensed to residents of nursing facilities
2 shall not be required if the nursing facility is in compliance with
3 the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR
4 483.60.

5 **(11) Advisement of the division of disability, aging, and**
6 **rehabilitative services in the operation of the pharmaceutical**
7 **assistance for the aged and disabled program under**
8 **IC 12-10-16.**

9 SECTION 9. [EFFECTIVE JULY 1, 2000] (a) **Money remaining**
10 **in the tobacco settlement fund on June 30, 2000, shall be**
11 **transferred to the tobacco settlement trust fund created by**
12 **IC 4-12-1-14.3, as amended by this act, on July 1, 2000.**

13 (b) **Notwithstanding P.L.273-1999 or IC 4-12-1-14.3, as**
14 **amended by this act, the appropriations made by P.L.273-1999,**
15 **SECTION 8, for the state fiscal year beginning July 1, 2000, for**
16 **CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP)**
17 **ASSISTANCE and CHILDREN'S HEALTH INSURANCE**
18 **PROGRAM (CHIP) ADMINISTRATION are payable from the**
19 **tobacco settlement trust fund created by IC 4-12-1-14.3, as**
20 **amended by this act.**

21 (c) **This SECTION expires July 1, 2002.**

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