

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1273**

Citations Affected: IC 27-8-10.

Synopsis: ICHIA amendments. Amends the comprehensive health insurance association (ICHIA) law concerning: (1) premium rates; (2) assessments; (3) tax credits; (4) reporting requirements; (5) member and health care provider grievances; (6) reimbursement rates; (7) provider contracting; (8) balance billing. Makes technical corrections and conforming amendments. Repeals sections concerning Medicaid payment programs. Makes an appropriation. **(This conference committee report amends EHB 1273 to: (1) specify that a consumer price index based premium rate adjustment may not cause a premium rate to exceed the statutory limitation on the rate; (2) sunset the consumer price index based premium rate adjustment on June 30, 2006; (3) delete an alternative ICHIA reimbursement method that specified a minimum reimbursement of the Medicare rate plus 8.5%; (4) change the effective date of the balance billing prohibition from April 1, 2004 to upon passage; (5) correct a conflict with SEA 106-2004; (6) allow an insured who was balance billed by a health care provider after June 30, 2003, and before passage of this act, and who paid the provider, to submit proof of payment to ICHIA not later than December 31, 2004, for reimbursement from ICHIA; (7) require costs of balance billing reimbursements to be assessed to members; and (8) prohibit balance billing after passage, regardless of when the health care services were provided.)**

Effective: Upon passage; January 1, 2004 (retroactive); March 15, 2004 (retroactive); July 1, 2004; January 1, 2005.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1273 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 27-8-10-2.1, AS AMENDED BY P.L.178-2003,
3 SECTION 63, AND P.L.193-2003, SECTION 4, IS CORRECTED
4 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY
5 1, 2005]: Sec. 2.1. (a) There is established a nonprofit legal entity to be
6 referred to as the Indiana comprehensive health insurance association,
7 which must assure that health insurance is made available throughout
8 the year to each eligible Indiana resident applying to the association for
9 coverage. All carriers, health maintenance organizations, limited service
10 health maintenance organizations, and self-insurers providing health
11 insurance or health care services in Indiana must be members of the
12 association. The association shall operate under a plan of operation
13 established and approved under subsection (c) and shall exercise its
14 powers through a board of directors established under this section.
15 (b) The board of directors of the association consists of ~~seven (7)~~
16 *nine (9)* members whose principal residence is in Indiana selected as
17 follows:
18 (1) ~~Three (3)~~ *Four (4)* members to be appointed by the
19 commissioner from the members of the association, one (1) of
20 which must be a representative of a health maintenance
21 organization.

1 (2) Two (2) members to be appointed by the commissioner shall be
2 consumers representing policyholders.

3 (3) Two (2) members shall be the state budget director or designee
4 and the commissioner of the department of insurance or designee.

5 (4) *One (1) member to be appointed by the commissioner must be*
6 *a representative of health care providers.*

7 The commissioner shall appoint the chairman of the board, and the
8 board shall elect a secretary from its membership. The term of office
9 of each appointed member is three (3) years, subject to eligibility for
10 reappointment. Members of the board who are not state employees may
11 be reimbursed from the association's funds for expenses incurred in
12 attending meetings. The board shall meet at least semiannually, with the
13 first meeting to be held not later than May 15 of each year.

14 (c) The association shall submit to the commissioner a plan of
15 operation for the association and any amendments to the plan necessary
16 or suitable to assure the fair, reasonable, and equitable administration of
17 the association. The plan of operation becomes effective upon approval
18 in writing by the commissioner consistent with the date on which the
19 coverage under this chapter must be made available. The commissioner
20 shall, after notice and hearing, approve the plan of operation if the plan
21 is determined to be suitable to assure the fair, reasonable, and equitable
22 administration of the association and provides for the sharing of
23 association losses on an equitable, proportionate basis among the
24 member carriers, health maintenance organizations, limited service
25 health maintenance organizations, and self-insurers. If the association
26 fails to submit a suitable plan of operation within one hundred eighty
27 (180) days after the appointment of the board of directors, or at any
28 time thereafter the association fails to submit suitable amendments to
29 the plan, the commissioner shall adopt rules under IC 4-22-2 necessary
30 or advisable to implement this section. These rules are effective until
31 modified by the commissioner or superseded by a plan submitted by the
32 association and approved by the commissioner. The plan of operation
33 must:

34 (1) establish procedures for the handling and accounting of assets
35 and money of the association;

36 (2) establish the amount and method of reimbursing members of
37 the board;

38 (3) establish regular times and places for meetings of the board of
39 directors;

40 (4) establish procedures for records to be kept of all financial
41 transactions and for the annual fiscal reporting to the
42 commissioner;

43 (5) establish procedures whereby selections for the board of
44 directors will be made and submitted to the commissioner for
45 approval;

46 (6) contain additional provisions necessary or proper for the
47 execution of the powers and duties of the association; and

48 (7) establish procedures for the periodic advertising of the general
49 availability of the health insurance coverages from the association.

50 (d) The plan of operation may provide that any of the powers and

1 duties of the association be delegated to a person who will perform
 2 functions similar to those of this association. A delegation under this
 3 section takes effect only with the approval of both the board of
 4 directors and the commissioner. The commissioner may not approve a
 5 delegation unless the protections afforded to the insured are
 6 substantially equivalent to or greater than those provided under this
 7 chapter.

8 (e) The association has the general powers and authority enumerated
 9 by this subsection in accordance with the plan of operation approved
 10 by the commissioner under subsection (c). The association has the
 11 general powers and authority granted under the laws of Indiana to
 12 carriers licensed to transact the kinds of health care services or health
 13 insurance described in section 1 of this chapter and also has the specific
 14 authority to do the following:

15 (1) Enter into contracts as are necessary or proper to carry out this
 16 chapter, subject to the approval of the commissioner.

17 (2) **Subject to section 2.6 of this chapter**, sue or be sued,
 18 including taking any legal actions necessary or proper for recovery
 19 of any assessments for, on behalf of, or against participating
 20 carriers.

21 (3) Take legal action necessary to avoid the payment of improper
 22 claims against the association or the coverage provided by or
 23 through the association.

24 (4) Establish a medical review committee to determine the
 25 reasonably appropriate level and extent of health care services in
 26 each instance.

27 (5) Establish appropriate rates, scales of rates, rate classifications
 28 and rating adjustments, such rates not to be unreasonable in relation
 29 to the coverage provided and the reasonable operational expenses
 30 of the association.

31 (6) Pool risks among members.

32 (7) Issue policies of insurance on an indemnity or provision of
 33 service basis providing the coverage required by this chapter.

34 (8) Administer separate pools, separate accounts, or other plans or
 35 arrangements considered appropriate for separate members or
 36 groups of members.

37 (9) Operate and administer any combination of plans, pools, or
 38 other mechanisms considered appropriate to best accomplish the
 39 fair and equitable operation of the association.

40 (10) Appoint from among members appropriate legal, actuarial, and
 41 other committees as necessary to provide technical assistance in the
 42 operation of the association, policy and other contract design, and
 43 any other function within the authority of the association.

44 (11) Hire an independent consultant.

45 (12) Develop a method of advising applicants of the availability of
 46 other coverages outside the association. *and may promulgate a list*
 47 *of health conditions the existence of which would deem an*
 48 *applicant eligible without demonstrating a rejection of coverage by*
 49 *one (1) carrier.*

50 (13) Provide for the use of managed care plans for insureds,

1 including the use of:

2 (A) health maintenance organizations; and

3 (B) preferred provider plans.

4 (14) Solicit bids directly from providers for coverage under this
5 chapter.

6 **(15) Subject to section 3 of this chapter, negotiate**
7 **reimbursement rates and enter into contracts with individual**
8 **health care providers and health care provider groups.**

9 (f) *The board shall obtain an actuarial recommendation for*
10 *development of an equitable methodology for determination of member*
11 *assessments.*

12 ~~(g)~~ Rates for coverages issued by the association may not be
13 unreasonable in relation to the benefits provided, the risk experience,
14 and the reasonable expenses of providing the coverage. Separate scales
15 of premium rates based on age apply for individual risks. Premium rates
16 must take into consideration the extra morbidity and administration
17 expenses, if any, for risks insured in the association. The rates for a
18 given classification may ~~not~~ be:

19 (1) not more than one hundred fifty percent (150%) of the average
20 premium rate for that class charged by the five (5) carriers with the
21 largest premium volume in the state during the preceding calendar
22 year for an insured whose family income is less than three hundred
23 fifty-one percent (351%) of the federal income poverty level for the
24 same size family; and

25 (2) an amount equal to:

26 (A) not less than one hundred fifty-one percent (151%); and

27 (B) not more than two hundred percent (200%);

28 of the average premium rate for that class charged by the five (5)
29 carriers with the largest premium volume in the state during the
30 preceding calendar year, for an insured whose family income is
31 more than three hundred fifty percent (350%) of the federal income
32 poverty level for the same size family.

33 In determining the average rate of the five (5) largest carriers, the rates
34 charged by the carriers shall be actuarially adjusted to determine the rate
35 that would have been charged for benefits **substantially** identical to
36 those issued by the association. **Additionally, subject to the**
37 **limitations set forth in subdivisions (1) and (2), the association**
38 **may, on October 1 of each year, adjust the rates as described in**
39 **section 2.2 of this chapter.** All rates adopted by the association must
40 be submitted to the commissioner for approval.

41 (g) ~~(h)~~ Following the close of the association's fiscal year, the
42 association shall determine the net premiums, the expenses of
43 administration, and the incurred losses for the year. **Twenty-five**
44 **percent (25%) of any net loss shall be assessed by the association to**
45 **all members in proportion to their respective shares of total health**
46 **insurance premiums as reported to the department of insurance,**
47 **excluding premiums for Medicaid contracts with the state of Indiana,**
48 **received in Indiana during the calendar year (or with paid losses in the**
49 **year) coinciding with or ending during the fiscal year of the association.**

1 ~~or any other equitable basis as may be provided in the plan of operation.~~
 2 ~~For self-insurers, health maintenance organizations, and limited service~~
 3 ~~health maintenance organizations that are members of the association,~~
 4 ~~the proportionate share of losses must be determined through the~~
 5 ~~application of an equitable formula based upon claims paid, excluding~~
 6 ~~claims for Medicaid contracts with the state of Indiana, or the value of~~
 7 ~~services provided. **Seventy-five percent (75%) of any net loss shall**~~
 8 **be paid by the state.** In sharing losses, the association may abate or
 9 defer in any part the assessment of a member, if, in the opinion of the
 10 board, payment of the assessment would endanger the ability of the
 11 member to fulfill its contractual obligations. The association may also
 12 provide for interim assessments against members of the association if
 13 necessary to assure the financial capability of the association to meet
 14 the incurred or estimated claims expenses or operating expenses of the
 15 association until the association's next fiscal year is completed. ~~Except~~
 16 ~~as provided in sections 12 and 13 of this chapter,~~ Net gains, if any,
 17 must be held at interest to offset future losses or allocated to reduce
 18 future premiums. Assessments must be determined by the board
 19 members specified in subsection (b)(1), subject to final approval by the
 20 commissioner.

21 (h) ~~(h)~~ The association shall conduct periodic audits to assure the
 22 general accuracy of the financial data submitted to the association, and
 23 the association shall have an annual audit of its operations by an
 24 independent certified public accountant.

25 (i) ~~(i)~~ The association is subject to examination by the department of
 26 insurance under IC 27-1-3.1. The board of directors shall submit, not
 27 later than March 30 of each year, a financial report for the preceding
 28 calendar year in a form approved by the commissioner.

29 (j) ~~(j)~~ All policy forms issued by the association must conform in
 30 substance to prototype forms developed by the association, must in all
 31 other respects conform to the requirements of this chapter, and must
 32 be filed with and approved by the commissioner before their use.

33 (k) ~~(k)~~ The association may not issue an association policy to any
 34 individual who, on the effective date of the coverage applied for, does
 35 not meet the eligibility requirements of section 5.1 of this chapter.

36 ~~(l) The association shall pay an agent's insurance producer's referral~~
 37 ~~fee of twenty-five dollars (\$25) to each insurance agent producer who~~
 38 ~~refers an applicant to the association if that applicant is accepted.~~

39 ~~(m) (l)~~ The association and the premium collected by the association
 40 shall be exempt from the premium tax, the adjusted gross income tax,
 41 or any combination of these upon revenues or income that may be
 42 imposed by the state.

43 ~~(n) (m)~~ Members who, ~~after July 1, 1983,~~ during any calendar year,
 44 have paid one (1) or more assessments levied under this chapter may
 45 either:

46 ~~(1) take a credit against premium taxes, adjusted gross income~~
 47 ~~taxes, or any combination of these, or similar taxes upon revenues~~
 48 ~~or income of member insurers that may be imposed by the state, up~~
 49 ~~to the amount of the taxes due for each calendar year in which the~~
 50 ~~assessments were paid and for succeeding years until the aggregate~~

1 of those assessments have been offset by either credits against
2 those taxes or refunds from the association; or

3 ~~(2)~~ any member insurer may include in the rates for premiums
4 charged for insurance policies to which this chapter applies
5 amounts sufficient to recoup a sum equal to the amounts paid to
6 the association by the member less any amounts returned to the
7 member insurer by the association, and the rates shall not be
8 deemed excessive by virtue of including an amount reasonably
9 calculated to recoup assessments paid by the member.

10 ~~(n)~~ (n) The association shall provide for the option of monthly
11 collection of premiums.

12 **(o) The association shall periodically certify to the budget agency**
13 **the amount necessary to pay seventy-five percent (75%) of any**
14 **net loss as specified in subsection (g).**

15 SECTION 2. IC 27-8-10-2.2 IS ADDED TO THE INDIANA CODE
16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2004]: Sec. 2.2. **(a) Subject to subsections (b) and (c), a premium**
18 **rate calculated under section 2.1 of this chapter may, on October**
19 **1 of each year, be adjusted by an amount equal to:**

20 **(1) the percentage change in medical cost experienced by the**
21 **association; minus**

22 **(2) the percentage change in the Indiana medical care**
23 **component of the Consumer Price Index for all Urban**
24 **Consumers, as published by the United States Bureau of**
25 **Labor Statistics;**

26 **during the preceding calendar year.**

27 **(b) A positive or negative adjustment in the rate calculated**
28 **under subsection (a) may not be greater than ten percent (10%).**

29 **(c) A premium rate adjustment under this section may not**
30 **result in a premium rate that is more than the maximum**
31 **premium rate allowed under section 2.1(f) of this chapter.**

32 **(d) This section expires June 30, 2006.**

33 SECTION 3. IC 27-8-10-2.3, AS ADDED BY P.L.167-2002,
34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2004]: Sec. 2.3. **(a) A member shall, not later than October 31**
36 **of each year, certify an independently audited report to the:**

37 **(1) association;**

38 **(2) legislative council; and**

39 **(3) department of insurance;**

40 **of the amount of tax credits taken against assessments by the member**
41 **under section ~~2.1(n)(1)~~ 2.1 (as in effect December 31, 2004) or 2.4**
42 **of this chapter during the previous calendar year.**

43 **(b) A member shall, not later than October 31 of each year,**
44 **certify an independently audited report to the association of the**
45 **amount of assessments paid by the member against which a tax**
46 **credit has not been taken under section 2.1 (as in effect December**
47 **31, 2004) or 2.4 of this chapter as of the date of the report.**

48 SECTION 4. IC 27-8-10-2.4 IS ADDED TO THE INDIANA CODE

1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
2 JANUARY 1, 2005]: **Sec. 2.4. (a) Beginning January 1, 2005, a
3 member that, before January 1, 2005, has:**

4 **(1) paid an assessment; and**

5 **(2) not taken a credit against taxes;**

6 **under section 2.1 of this chapter (as in effect December 31, 2004)**
7 **is not entitled to claim or carry forward the unused tax credit**
8 **except as provided in this section.**

9 **(b) A member described in subsection (a) may, for each taxable**
10 **year beginning after December 31, 2006, take a credit of not more**
11 **than ten percent (10%) of the amount of the assessments paid**
12 **before January 1, 2005, against which a tax credit has not been**
13 **taken before January 1, 2005. A credit under this subsection may**
14 **be taken against premium taxes, adjusted gross income taxes, or**
15 **any combination of these, or similar taxes upon revenues or**
16 **income of the member that may be imposed by the state, up to the**
17 **amount of the taxes due for each taxable year.**

18 **(c) If the maximum amount of a tax credit determined under**
19 **subsection (b) for a taxable year exceeds a member's liability for**
20 **the taxes described in subsection (b), the member may carry the**
21 **unused portion of the tax credit forward to subsequent taxable**
22 **years. Tax credits carried forward under this subsection are not**
23 **subject to the ten percent (10%) limit set forth in subsection (b).**

24 **(d) The total amount of credits taken by a member under this**
25 **section in all taxable years may not exceed the total amount of**
26 **assessments paid by the member before January 1, 2005, minus**
27 **the total amount of tax credits taken by the member under**
28 **section 2.1 of this chapter (as in effect December 31, 2004) before**
29 **January 1, 2005.**

30 SECTION 5. IC 27-8-10-2.5 IS ADDED TO THE INDIANA CODE
31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
32 1, 2004]: **Sec. 2.5. (a) A member shall comply with the**
33 **association's plan of operation.**

34 **(b) A member assessment under section 2.1 of this chapter is**
35 **due not more than thirty (30) days after the member receives**
36 **written notice of the assessment. A member that pays an**
37 **assessment after the due date shall pay interest on the**
38 **assessment at the rate of six percent (6%) per annum.**

39 SECTION 6. IC 27-8-10-2.6 IS ADDED TO THE INDIANA CODE
40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
41 JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 2.6. (a) If a:**

42 **(1) member is aggrieved by an act of the association; or**

43 **(2) health care provider is aggrieved by an act of the**
44 **association with respect to reimbursement to the provider**
45 **under an association policy;**

46 **the member or health care provider shall, not more than ninety**
47 **(90) days after the act occurs, appeal to the board of directors for**

1 review of the act.

2 (b) If:

3 (1) within thirty (30) days after an appeal is filed under
4 subsection (a), the board of directors has not acted on the
5 appeal; or

6 (2) a member or health care provider is aggrieved by a final
7 action or decision of the board of directors;

8 the member or health care provider may appeal to the
9 commissioner.

10 (c) An appeal to the commissioner under subsection (b) must be
11 filed less than thirty (30) days after the:

12 (1) expiration of the thirty (30) day period specified in
13 subsection (b)(1); or

14 (2) action or decision specified in subsection (b)(2).

15 (d) The commissioner shall, not more than forty-five (45) days
16 after an appeal is filed under subsection (c), take a final action or
17 issue an order regarding the appeal.

18 (e) A final action or order of the commissioner on an appeal
19 filed under this section is subject to judicial review.

20 (f) If a member or health care provider sues the association, the
21 court shall not award to the member or health care provider:

22 (1) attorney's fees or costs; or

23 (2) punitive damages.

24 SECTION 7. IC 27-8-10-3 IS AMENDED TO READ AS FOLLOWS
25 [EFFECTIVE MARCH 15, 2004 (RETROACTIVE)]: Sec. 3. (a) An
26 association policy issued under this chapter may pay usual and
27 customary charges or use other reimbursement systems that are
28 consistent with managed care plans, including fixed fee schedules and
29 capitated reimbursement, for medically necessary eligible health care
30 services rendered or furnished for the diagnosis or treatment of illness
31 or injury that exceed the deductible and coinsurance amounts applicable
32 under section 4 of this chapter: an amount for medically necessary
33 eligible expenses related to the diagnosis or treatment of illness
34 or injury that exceed the deductible and coinsurance amounts
35 applicable under section 4 of this chapter. Payment under an
36 association policy must be based on one (1) or a combination of
37 the following reimbursement methods, as determined by the board
38 of directors:

39 (1) The association's usual and customary fee schedule in
40 effect on January 1, 2004. If payment is based on the usual
41 and customary fee schedule in effect on January 1, 2004, the
42 rates of reimbursement under the fee schedule must be
43 adjusted annually by a percentage equal to the percentage
44 change in the Indiana medical care component of the
45 Consumer Price Index for all Urban Consumers, as published
46 by the United States Bureau of Labor Statistics during the
47 preceding calendar year.

1 **(2) A health care provider network arrangement. If payment**
 2 **is based on a health care provider network arrangement,**
 3 **reimbursement under an association policy must be made**
 4 **according to:**

5 **(A) a network fee schedule for network health care**
 6 **providers and nonnetwork health care providers; and**

7 **(B) any additional coinsurance that applies to the insured**
 8 **under the association policy if the insured obtains health**
 9 **care services from a nonnetwork health care provider.**

10 **(b) Eligible expenses are the charges for the following health care**
 11 **services and articles to the extent furnished by a health care provider in**
 12 **an emergency situation or furnished or prescribed by a physician:**

13 (1) Hospital services, including charges for the institution's most
 14 common semiprivate room, and for private room only when
 15 medically necessary, but limited to a total of one hundred eighty
 16 (180) days in a year.

17 (2) Professional services for the diagnosis or treatment of injuries,
 18 illnesses, or conditions, other than mental or dental, that are
 19 rendered by a physician or, at the physician's direction, by the
 20 physician's staff of registered or licensed nurses, and allied health
 21 professionals.

22 (3) The first twenty (20) professional visits for the diagnosis or
 23 treatment of one (1) or more mental conditions rendered during the
 24 year by one (1) or more physicians or, at their direction, by their
 25 staff of registered or licensed nurses, and allied health
 26 professionals.

27 (4) Drugs and contraceptive devices requiring a physician's
 28 prescription.

29 (5) Services of a skilled nursing facility for not more than one
 30 hundred eighty (180) days in a year.

31 (6) Services of a home health agency up to two hundred seventy
 32 (270) days of service a year.

33 (7) Use of radium or other radioactive materials.

34 (8) Oxygen.

35 (9) Anesthetics.

36 (10) Prostheses, other than dental.

37 (11) Rental of durable medical equipment which has no personal
 38 use in the absence of the condition for which prescribed.

39 (12) Diagnostic X-rays and laboratory tests.

40 (13) Oral surgery for:

41 (A) excision of partially or completely erupted impacted teeth;

42 (B) excision of a tooth root without the extraction of the entire
 43 tooth; or

44 (C) the gums and tissues of the mouth when not performed in
 45 connection with the extraction or repair of teeth.

46 (14) Services of a physical therapist and services of a speech
 47 therapist.

48 (15) Professional ambulance services to the nearest health care
 49 facility qualified to treat the illness or injury.

1 (16) Other medical supplies required by a physician's orders.
 2 An association policy may also include comparable benefits for those
 3 who rely upon spiritual means through prayer alone for healing upon
 4 such conditions, limitations, and requirements as may be determined by
 5 the board of directors.

6 ~~(b)~~ (c) A managed care organization that issues an association policy
 7 may not refuse to enter into an agreement with a hospital solely because
 8 the hospital has not obtained accreditation from an accreditation
 9 organization that:

- 10 (1) establishes standards for the organization and operation of
- 11 hospitals;
- 12 (2) requires the hospital to undergo a survey process for a fee paid
- 13 by the hospital; and
- 14 (3) was organized and formed in 1951.

15 ~~(c)~~ (d) This section does not prohibit a managed care organization
 16 from using performance indicators or quality standards that:

- 17 (1) are developed by private organizations; and
- 18 (2) do not rely upon a survey process for a fee charged to the
- 19 hospital to evaluate performance.

20 ~~(d)~~ (e) For purposes of this section, if benefits are provided in the
 21 form of services rather than cash payments, their value shall be
 22 determined on the basis of their monetary equivalency.

23 ~~(e)~~ (f) The following are not eligible expenses in any association
 24 policy within the scope of this chapter:

- 25 (1) Services for which a charge is not made in the absence of
- 26 insurance or for which there is no legal obligation on the part of the
- 27 patient to pay.
- 28 (2) Services and charges made for benefits provided under the laws
- 29 of the United States, including Medicare and Medicaid, military
- 30 service connected disabilities, medical services provided for
- 31 members of the armed forces and their dependents or for
- 32 employees of the armed forces of the United States, medical
- 33 services financed in the future on behalf of all citizens by the United
- 34 States.
- 35 (3) Benefits which would duplicate the provision of services or
- 36 payment of charges for any care for injury or disease either:
 - 37 (A) arising out of and in the course of an employment subject to
 - 38 a worker's compensation or similar law; or
 - 39 (B) for which benefits are payable without regard to fault under
 - 40 a coverage statutorily required to be contained in any motor
 - 41 vehicle or other liability insurance policy or equivalent
 - 42 self-insurance.

43 However, this subdivision does not authorize exclusion of charges
 44 that exceed the benefits payable under the applicable worker's
 45 compensation or no-fault coverage.

- 46 (4) Care which is primarily for a custodial or domiciliary purpose.
- 47 (5) Cosmetic surgery unless provided as a result of an injury or
- 48 medically necessary surgical procedure.
- 49 (6) Any charge for services or articles the provision of which is not
- 50 within the scope of the license or certificate of the institution or

1 individual rendering the services.

2 ~~(f)~~ **(g)** The coverage and benefit requirements of this section for
3 association policies may not be altered by any other inconsistent state
4 law without specific reference to this chapter indicating a legislative
5 intent to add or delete from the coverage requirements of this chapter.

6 ~~(g)~~ **(h)** This chapter does not prohibit the association from issuing
7 additional types of health insurance policies with different types of
8 benefits that, in the opinion of the board of directors, may be of benefit
9 to the citizens of Indiana.

10 ~~(h)~~ **(i)** This chapter does not prohibit the association or its
11 administrator from implementing uniform procedures to review the
12 medical necessity and cost effectiveness of proposed treatment,
13 confinement, tests, or other medical procedures. Those procedures may
14 take the form of preadmission review for nonemergency hospitalization,
15 case management review to verify that covered individuals are aware of
16 treatment alternatives, or other forms of utilization review. Any cost
17 containment techniques of this type must be adopted by the board of
18 directors and approved by the commissioner.

19 SECTION 8. IC 27-8-10-3.2 IS ADDED TO THE INDIANA CODE
20 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON
21 PASSAGE]: **Sec. 3.2. Except as provided in section 3.6 of this**
22 **chapter, a health care provider shall not bill an insured for any**
23 **amount that exceeds:**

24 **(1) the payment made by the association under the association**
25 **policy for eligible expenses incurred by the insured; and**

26 **(2) any copayment, deductible, or coinsurance amounts**
27 **applicable under the association policy.**

28 SECTION 9. IC 27-8-10-14, AS AMENDED BY SEA 106-2004,
29 SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 UPON PASSAGE]: Sec. 14. (a) Notwithstanding section 2.1 of this
31 chapter: ~~for the period beginning July 1, 2003, and ending March 15,~~
32 ~~2004.~~

33 (1) fifty percent (50%) of any net loss determined under ~~section~~
34 ~~2.1~~ ~~(h)~~ **section 2.1** of this chapter shall be assessed by the
35 association to all members in proportion to their respective shares
36 of total health insurance premiums, excluding premiums for
37 Medicaid contracts with the state, received in Indiana during the
38 calendar year (or with paid losses in the year) coinciding with or
39 ending during the fiscal year of the association; and

40 (2) fifty percent (50%) of any net loss determined under ~~section~~
41 ~~2.1~~ ~~(h)~~ **section 2.1** of this chapter shall be assessed by the
42 association to all members in proportion to their respective shares
43 of the number of individuals in Indiana who are covered under
44 health insurance provided by a member, excluding individuals who
45 are covered under Medicaid contracts with the state during the
46 calendar year coinciding with or ending during the fiscal year of the
47 association.

48 (b) This section expires ~~March 15, 2004.~~ **January 1, 2005.**

49 SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE

1 JULY 1, 2004]: IC 27-8-10-12; IC 27-8-10-13.

2 SECTION 11. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:

3 (a) Notwithstanding IC 27-8-10-2.1, as amended by this act:

4 (1) fifty percent (50%) of any net loss determined under
5 IC 27-8-10-2.1, as in effect on January 1, 2004, shall be
6 assessed by the association to all members in proportion to
7 their respective shares of total health insurance premiums,
8 excluding premiums for Medicaid contracts with the state,
9 received in Indiana during the calendar year (or with paid
10 losses in the year) coinciding with or ending during the fiscal
11 year of the association; and

12 (2) fifty percent (50%) of any net loss determined under
13 IC 27-8-10-2.1, as in effect on January 1, 2004, shall be
14 assessed by the association to all members in proportion to
15 their respective shares of the number of individuals in Indiana
16 who are covered under health insurance provided by a
17 member, excluding individuals who are covered under
18 Medicaid contracts with the state during the calendar year
19 coinciding with or ending during the fiscal year of the
20 association.

21 (b) This section expires May 1, 2004.

22 SECTION 12. [EFFECTIVE JANUARY 1, 2005] The amounts
23 certified to the budget agency under IC 27-8-10-2.1(o), as
24 amended by this act, beginning January 1, 2005, and ending June
25 30, 2005, are appropriated to the budget agency for its use in
26 making the payments required by IC 27-8-10-2.1(g), as amended
27 by this act, beginning January 1, 2005, and ending June 30, 2005.

28 SECTION 13. [EFFECTIVE UPON PASSAGE] (a) The definitions
29 in IC 27-8-10-1 apply throughout this SECTION.

30 (b) An insured who was, after June 30, 2003, and before the
31 effective date of IC 27-8-10-3.2, as added by this act, billed by a
32 health care provider for an amount that exceeded:

33 (1) the payment made by the association under the insured's
34 association policy for eligible expenses incurred by the
35 insured; and

36 (2) any copayment, deductible, or coinsurance amounts
37 applicable under the association policy;

38 and paid all or a portion of the amount may, not later than
39 December 31, 2004, submit to the association proof of the
40 insured's payment. The association shall reimburse the insured
41 the amount for which proof of payment is submitted by the
42 insured.

43 (c) All amounts reimbursed by the association under this
44 SECTION shall be assessed by the association to all members of
45 the association according to the member assessment methodology
46 in effect on the date of the assessment under:

47 (1) IC 27-8-10; or

1 **(2) SECTION 11 of this act.**
2 **(d) This SECTION expires December 31, 2006.**
3 SECTION 14. [EFFECTIVE UPON PASSAGE] **(a) The definitions**
4 **in IC 27-8-10-1 apply throughout this SECTION.**
5 **(b) IC 27-8-10-3.2, as added by this act, applies to any billing**
6 **that occurs on or after the effective date of IC 27-8-10-3.2, as**
7 **added by this act, regardless of when the health care services to**
8 **which the bill applies were provided.**
9 SECTION 15. **An emergency is declared for this act.**
10 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1273 as reprinted February 24, 2004.)

Conference Committee Report
on
Engrossed House Bill 1273

Signed by:

Representative Fry
Chairperson

Senator Miller

Representative Ripley

Senator Lanane

House Conferees

Senate Conferees