CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 331

Citations Affected: IC 4-21.5-3-6; IC 10-13-3-27; IC 12-7-2-168; IC 12-9-2-3; IC 12-9.1-2-3; IC 12-10; IC 12-11-1.1; IC 12-12-8-6; IC 12-14; IC 12-15; IC 35-46-1-13; IC 12-8-1-10; IC 12-8-2-12; IC 12-8-6-10; IC 12-8-8-8; IC 12-10-3-16; IC 12-10-4; IC 12-15-14.5.

Synopsis: FSSA matters. Proposed conference committee report to SB 331. Authorizes the division of aging, the bureau of aging services, the division of disability and rehabilitative services, and the bureau of developmental disabilities services to issue certain notice orders and citations against a provider that violates certain rules. Allows the Indiana state police to release criminal background check information concerning the maintenance of a provider's license. Requires the division of aging to establish standards of practice governing the services provided by the adult protective services unit. Requires the Alzheimer's disease and related senile dementia task force (task force) to develop a state plan concerning the provision of Alzheimer's and related senile dementia services and sunsets the task force on December 31, 2013. Reduces the statewide independent living council from a minimum of 20 members to a minimum of 11 members. Requires a family to be provided a cash assistance benefit of at least $10 under the Temporary Assistance for Needy Families (TANF) program if certain income standards and employment earnings are met. Specifies that access to a child support enforcement program and IMPACT (JOBS) training program are included as TANF services for certain eligible families. Deems that a Medicaid recipient has automatically assigned certain medical support rights for the duration of the recipient's enrollment in Medicaid. Changes the time after which certain Medicaid program changes may take effect from 45 to 30 days after issuance of the notice or bulletin concerning the change. Provides that the notice or bulletin is void if it is not properly communicated to the parties. Removes language from the definition of "Medicaid inpatient days" concerning dually eligible individuals. Transfers administrative rules concerning aging to the division of aging. Requires the probate study commission to study how to amend probate law concerning the sale of real estate to satisfy certain claims. Repeals: (1) a provision that requires the adult protective services unit and the division of aging to destroy any records concerning a report concerning an endangered adult that is unsubstantiated; (2) expiration dates for the office of the secretary of family and social services, the office of Medicaid policy and planning, the statutes concerning directors of divisions within family and social services (FSSA), and certain advisory committees under the FSSA statutes; (3) the law concerning Alzheimer's disease and

related senile dementia programs; and (4) the law concerning supplemental payments for ambulance transportation services. Makes technical changes. **(This conference committee report: (1) changes, from 180 days to 30 days, the time frame in which an improperly issued Medicaid notice must wait before being resubmitted, and removes Medicaid National Correct Code Initiative (NCCI) edits from the list of notices; (2) removes a section concerning Medicaid forms that passed in an earlier bill; and (3) removes language that specified that certain recreation programs for school age children may be exempt from licensure requirements.)**

Effective: July 1, 2011.

Adopted	Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 331 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-21.5-3-6, AS AMENDED BY P.L.35-2010, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) Notice shall be given under this section concerning the following:

(1) A safety order under IC 22-8-1.1.

(2) Any order that:

(A) imposes a sanction on a person or terminates a legal right, duty, privilege, immunity, or other legal interest of a person;

(B) is not described in section 4 or 5 of this chapter or IC 4-21.5-4; and

(C) by statute becomes effective without a proceeding under this chapter if there is no request for a review of the order within a specified period after the order is issued or served.

(3) A notice of program reimbursement or equivalent determination or other notice regarding a hospital's reimbursement issued by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning regarding a hospital's year end cost settlement.

(4) A determination of audit findings or an equivalent determination by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning arising

from a Medicaid postpayment or concurrent audit of a hospital's Medicaid claims.

(5) A license revocation under:

(A) IC 24-4.4-2;

(B) IC 24-4.5-3;

(C) IC 28-1-29;

(D) IC 28-7-5;

(E) IC 28-8-4; or

(F) IC 28-8-5.

(6) An order issued by the:

(A) division of aging or the bureau of aging services; or

(B) division of disability and rehabilitative services or the bureau of developmental disabilities services;

against providers regulated by the division of aging or the bureau of developmental disabilities services and not licensed by the state department of health under IC 16-27 or IC 16-28.

(b) When an agency issues an order described by subsection (a), the agency shall give notice to the following persons:

(1) Each person to whom the order is specifically directed.

(2) Each person to whom a law requires notice to be given.

A person who is entitled to notice under this subsection is not a party to any proceeding resulting from the grant of a petition for review under section 7 of this chapter unless the person is designated as a party in the record of the proceeding.

(c) The notice must include the following:

(1) A brief description of the order.

(2) A brief explanation of the available procedures and the time limit for seeking administrative review of the order under section 7 of this chapter.

(3) Any other information required by law.

(d) An order described in subsection (a) is effective fifteen (15) days after the order is served, unless a statute other than this article specifies a different date or the agency specifies a later date in its order. This subsection does not preclude an agency from issuing, under IC 4-21.5-4, an emergency or other temporary order concerning the subject of an order described in subsection (a).

(e) If a petition for review of an order described in subsection (a) is filed within the period set by section 7 of this chapter and a petition for stay of effectiveness of the order is filed by a party or another person who has a pending petition for intervention in the proceeding, an administrative law judge shall, as soon as practicable, conduct a preliminary hearing to determine whether the order should be stayed in whole or in part. The burden of proof in the preliminary hearing is on the person seeking the stay. The administrative law judge may stay the order in whole or in part. The order concerning the stay may be issued after an order described in subsection (a) becomes effective. The resulting order concerning the stay shall be served on the parties and any person who has a pending petition for intervention in the proceeding. It must include a statement of the facts and law on which it is based.

SECTION 2. IC 10-13-3-27, AS AMENDED BY P.L.44-2009,

SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement agency shall release a limited criminal history to or allow inspection of a limited criminal history by noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice organization or individual;

(2) has:

(A) applied for a license **or is maintaining a license;** and ~~has~~

(B) provided criminal history data as required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

(4) is in the process of being apprehended by a law enforcement agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;

(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) is currently residing in a location designated by the department of child services (established by IC 31-25-1-1) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;

(10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;

(11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of the division of family resources;

(12) is being sought by the parent locator service of the child support bureau of the department of child services;

(13) is or was required to register as a sex or violent offender under IC 11-8-8; or

(14) has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

(K) Attempt under IC 35-41-5-1 to commit an offense listed in clauses (A) through (J).

(L) Conspiracy under IC 35-41-5-2 to commit an offense listed in clauses (A) through (J).

(M) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under clauses (A) through (J).

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for any of the following purposes:

(A) Employment with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who knowingly or intentionally uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 3. IC 12-7-2-168, AS AMENDED BY SEA 88-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 168. "Respite care" means, for purposes of ~~IC 12-10-4 and~~ IC 12-10-5, temporary care or supervision of an individual with Alzheimer's disease or a related senile dementia that is provided because the individual's family or caretaker is temporarily unable or unavailable to provide needed care.

SECTION 4. IC 12-9-2-3, AS AMENDED BY HEA 1001-2011, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The director may do the following:

(1) Employ experts and consultants to assist the division in carrying out the division's functions.

(2) Utilize, with their consent, the services and facilities of other state agencies without reimbursement.

(3) Accept in the name of the division, for use in carrying out the functions of the division, money or property received by gift, bequest, or otherwise.

(4) Accept voluntary and uncompensated services.

(5) Expend money made available to the division according to policies enforced by the budget agency.

(6) Adopt rules under IC 4-22-2 necessary to carry out the functions of the division.

(7) Establish and implement the policies and procedures necessary to carry out the functions of the division.

(8) Issue orders under IC 4-21.5-3-6.

~~(8)~~ **(9)** Perform any other acts necessary to carry out the functions of the division.

(b) The director shall compile information and statistics from each bureau concerning the ethnicity and gender of a program or service recipient. The director may adopt rules under IC 4-22-2 necessary to implement this subsection.

SECTION 5. IC 12-9.1-2-3, AS AMENDED BY HEA 1001-2011, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The director may do the following:

(1) Employ experts and consultants to assist the division in carrying out the division's functions.

(2) Use, with their consent, the services and facilities of other state agencies without reimbursement.

(3) Accept in the name of the division, for use in carrying out the functions of the division, money or property received by gift, bequest, or otherwise.

(4) Accept voluntary and uncompensated services.

(5) Expend money made available to the division according to policies enforced by the budget agency.

(6) Adopt rules under IC 4-22-2 necessary to carry out the functions of the division.

(7) Establish and implement the policies and procedures necessary to carry out the functions of the division.

(8) Issue orders under IC 4-21.5-3-6.

~~(8)~~ **(9)** Perform any other acts necessary to carry out the functions of the division.

(b) The director shall compile information and statistics from each bureau concerning the ethnicity and gender of a program or service recipient. The director may adopt rules under IC 4-22-2 necessary to implement this subsection.

SECTION 6. IC 12-10-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. The bureau shall perform the following duties:

(1) Provide a comprehensive and coordinated service system for Indiana's aging population, giving high priority to those individuals in greatest need.

(2) Conduct studies and research into the needs and problems of the aging.

(3) Ensure participation by the aging in the planning and operation of all phases of the system.

(4) Provide a focal point for advocacy, coordination, monitoring, and evaluation of programs for the aging and the aged.

(5) Provide for the performance of any other functions required by regulations established under the Older Americans Act (42 U.S.C. 3001 et seq.).

(6) Function as the sole state agency to develop a comprehensive plan to meet the needs of the aged.

(7) Evaluate programs, services, and facilities for the aged and determine the extent to which those programs, services, and facilities meet the needs of the aged.

(8) Coordinate programs, services, and facilities furnished for the aged by state agencies and make recommendations regarding those programs, services, and facilities to the governor and the general assembly.

(9) Receive and disburse federal money made available for providing services to the aged or related purposes.

(10) Administer any state plan for the aging required by federal law.

(11) Provide consultation and assistance to communities and groups developing local services for the aged.

(12) Promote community education regarding the problems of the aged through institutes, publications, radio, television, and the press.

(13) Cooperate with agencies of the federal government in studies and conferences designed to examine the needs of the aged and prepare programs and facilities to meet those needs.

(14) Establish and maintain information and referral sources throughout Indiana when not provided by other agencies.

(15) Act, in accordance with regulations established under the Older Americans Act (42 U.S.C. 3001 et seq.), as the agent for providing state money to the area agencies on aging designated in each planning and service region in Indiana.

(16) Initiate, evaluate, and provide assistance for improving programs in cooperation with all other state agencies having concerns or responsibility for the aged.

(17) Conduct an annual conference on the problems of the aging and the aged.

(18) Designate area agencies on aging in each planning and service region in Indiana.

(19) Examine the needs of the aged and prepare programs and facilities to meet those needs.

(20) Issue orders under IC 4-21.5-3-6 when necessary in accordance with section 7 of this chapter.

SECTION 7. IC 12-10-1-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 7. (a) Upon a determination by the bureau that a provider has violated this article or a rule adopted under this article, the director shall issue a citation under IC 4-21.5-3-6 to the provider. The citation must state the following:**

(1) The nature of the violation.

(2) The classification of the violation.

(3) The corrective actions required of the provider to remedy the breach and to protect clients of the provider.

(4) Any penalty imposed on the provider.

(b) A person aggrieved by a citation issued under this section may request a review under IC 4-21.5-3-7. If a request for a hearing is not filed within the fifteen (15) day period, the determination contained in the citation is final.

(c) The bureau may impose the following remedies for a violation of this article or a rule adopted under this article:

(1) Issuance of an order for immediate correction of the

violation.

(2) Imposition of a fine not to exceed ten thousand dollars ($10,000).

(3) Suspension of new clients by the provider for a period not to exceed ninety (90) days.

(4) Revocation of the provider's license or issuance of a probationary license.

(5) A requirement that the provider comply with any plan of correction approved or directed by the division.

(d) In determining appropriate remedies under this section for a violation, the bureau shall consider the following:

(1) Whether the violation occurred for reasons beyond the provider's control.

(2) Whether the provider has demonstrated that the provider has taken the appropriate steps to reasonably ensure that the violation will not recur.

(3) The history of violations by the provider.

(4) The effect of the violation on the client.

(5) The degree of the violation.

SECTION 8. IC 12-10-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. The division shall establish **the following:**

(1) A statewide toll free telephone line continuously open to receive reports of suspected neglect, battery, or exploitation.

(2) Standards of practice established with the concurrence of the prosecuting attorneys council of Indiana (IC 33-39-8-2) and governing the services provided by the adult protective services unit.

SECTION 9. IC 12-10-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) The task force shall assist the division in carrying out the division's duties under ~~IC 12-10-4 and~~ IC 12-10-5.5. ~~including the formulation of rules adopted under IC 12-10-4.~~

(b) The task force shall ~~do the following:~~

~~(1) Identify areas of concern to be addressed by the division.~~

~~(2) Compile available research in the area of Alzheimer's disease or related senile dementia.~~

~~(3) Recommend services to the division to meet the needs of individuals with Alzheimer's disease or related senile dementia, including the needs of the individual's families.~~

~~(4) Recommend the development of training materials by the division for persons who care for or provide services to individuals with Alzheimer's disease or related senile dementia.~~ **develop a state plan concerning the provision of services in the area of Alzheimer's disease or related senile dementia.**

SECTION 10. IC 12-10-5-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 11. This chapter expires December 31, 2013.**

SECTION 11. IC 12-11-1.1-1, AS AMENDED BY P.L.22-2010, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2011]: Sec. 1. (a) The bureau of developmental disabilities services is established within the division.

(b) The bureau shall plan, coordinate, and administer the provision of individualized, integrated community based services for individuals with a developmental disability and their families, within the limits of available resources. The planning and delivery of services must be based on future plans of the individual with a developmental disability rather than on traditional determinations of eligibility for discrete services, with an emphasis on the preferences of the individual with a developmental disability and that individual's family.

(c) Services for individuals with a developmental disability must be services that meet the following conditions:

(1) Are provided under public supervision.

(2) Are designed to meet the developmental needs of individuals with a developmental disability.

(3) Meet all required state and federal standards.

(4) Are provided by qualified personnel.

(5) To the extent appropriate, are provided in home and community based settings in which individuals without disabilities participate.

(6) Are provided in conformity with a service plan developed under IC 12-11-2.1-2.

(d) The bureau shall approve entities to provide community based services and supports. Beginning July 1, 2011, the bureau shall ensure that an entity approved to provide ~~adult~~ day services, identified day habilitation, **including facility based or community based habilitation, prevocational services,** or vocational services under home and community based services waivers is accredited by at least one (1) of the following organizations:

(1) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.

(2) The Council on Quality and Leadership In Supports for People with Disabilities, or its successor.

(3) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.

(4) The National Committee for Quality Assurance, or its successor.

(5) The ISO-9001 human services QA system.

(6) An independent national accreditation organization approved by the secretary.

(e) The bureau shall approve and monitor community based residential, habilitation, and vocational service providers that provide alternatives to placement of individuals with a developmental disability in state institutions and health facilities licensed under IC 16-28 for individuals with a developmental disability. The services must simulate, to the extent feasible, patterns and conditions of everyday life that are as close as possible to normal. The community based service categories include the following:

(1) Supervised group living programs, which serve at least four (4) individuals and not more than eight (8) individuals, are funded by Medicaid, and are licensed by the community residential

facilities council.

(2) Supported living service arrangements to meet the unique needs of individuals in integrated settings. Supported living service arrangements providing residential services may not serve more than four (4) unrelated individuals in any one (1) setting. However, the head of the bureau shall waive this limitation for a setting providing residential services to more than four (4) unrelated individuals in any one (1) setting if the setting was in existence on June 30, 1999.

(f) To the extent that services described in subsection (e) are available and meet the individual's needs, an individual is entitled to receive services in the least restrictive environment possible.

(g) Community based services under subsection (e)(1) or (e)(2) must consider the needs of and provide choices and options for:

(1) individuals with a developmental disability; and

(2) families of individuals with a developmental disability.

(h) The bureau shall administer a system of service coordination to carry out this chapter.

(i) The bureau may issue orders under IC 4-21.5-3-6 against a provider that violates rules issued by the bureau for programs in which the provider is providing services in accordance with section 11 of this chapter.

SECTION 12. IC 12-11-1.1-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 11. (a) Upon a determination by the bureau that a provider has violated this article or a rule adopted under this article, the director shall issue a citation under IC 4-21.5-3-6 to the provider. The citation must state the following:**

(1) The nature of the violation.

(2) The classification of the violation.

(3) The corrective actions required of the provider to remedy the breach and to protect clients of the provider.

(4) Any penalty imposed on the provider.

(b) A person aggrieved by a citation issued under this section may request a review under IC 4-21.5-3-7. If a request for a hearing is not filed within the fifteen (15) day period, the determination contained in the citation is final.

(c) The bureau may impose the following remedies for a violation of this article or a rule adopted under this article:

(1) Issuance of an order for immediate correction of the violation.

(2) Imposition of a fine not to exceed ten thousand dollars ($10,000).

(3) Suspension of new clients by the provider for a period not to exceed ninety (90) days.

(4) Revocation of the provider's license or issuance of a probationary license.

(5) A requirement that the provider comply with any plan of correction approved or directed by the division.

(d) In determining appropriate remedies under this section for a violation, the bureau shall consider the following:

(1) Whether the violation occurred for reasons beyond the provider's control.

(2) Whether the provider has demonstrated that the provider has taken the appropriate steps to reasonably ensure that the violation will not recur.

(3) The history of violations by the provider.

(4) The effect of the violation on the client.

(5) The degree of the violation.

SECTION 13. IC 12-12-8-6, AS AMENDED BY P.L.182-2009(ss), SECTION 298, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) There is established a statewide independent living council. The council is not a part of a state agency.

(b) The council consists of at least ~~twenty (20)~~ **eleven (11)** members appointed by the governor, including the following:

(1) At least one (1) director of a center for independent living located in Indiana chosen by the directors of the centers for independent living located in Indiana.

(2) Nonvoting members from state agencies that provide services for individuals with disabilities.

(3) Other members, who may include the following:

(A) Representatives of centers for independent living.

(B) Parents and guardians of individuals with disabilities.

(C) Advocates for individuals with disabilities.

(D) Representatives from private business.

(E) Representatives of organizations that provide services for individuals with disabilities.

(F) Other appropriate individuals.

(c) The members appointed under subsection (b) must:

(1) provide statewide representation;

(2) represent a broad range of individuals with disabilities from diverse backgrounds;

(3) be knowledgeable about centers for independent living and independent living services; and

(4) include a majority of members who:

(A) are individuals with disabilities; and

(B) are not employed by a state agency or a center for independent living.

SECTION 14. IC 12-14-2-5.1, AS AMENDED BY P.L.161-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5.1. (a) Subject to section 5.2 of this chapter, a parent or an essential person may not receive payments if the person has received assistance under this article during the person's lifetime for twenty-four (24) months after June 30, 1995.

(b) ~~Subject to the time limits contained in subsection (a), a person who qualifies for~~ **A family receiving** TANF under section 5 of this chapter remains ~~categorically~~ eligible to receive TANF ~~assistance when the person becomes employed and the person's family's net earnings from employment calculated under rules adopted by the director of the division under IC 4-22-2, in combination with other sources of family income,~~ **services, including access to the Title IV-D child support**

enforcement program and the IMPACT (JOBS) program, when the family's income is greater than the amount of need recognized under section 5 of this chapter, but the family's gross income is less than one hundred percent (100%) of the federal income poverty level.

(c) A recipient family shall receive a cash assistance benefit under the TANF program of at least ten dollars ($10) if:

(1) the family's income is greater than the amount of need recognized under section 5 of this chapter;

(2) the family's gross income is less than one hundred percent (100%) of the federal income poverty level; and

(3) a parent or essential person receiving assistance has employment earnings.

SECTION 15. IC 12-14-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. As used in this chapter, "qualifying family" means a family that meets all the following conditions:

(1) The family consists of:

(A) a pregnant woman;

(B) a child who is less than eighteen (18) years of age; or

(C) a child who is at least eighteen (18) years of age but less than twenty-four (24) years of age who is attending secondary or post secondary school at least half-time.

(2) The child described in subdivision (1)(B) or (1)(C) resides with a custodial parent or other adult caretaker relative, which may include a child that may be temporarily living away from the custodial parent or other adult caretaker relative while attending school.

(3) The gross family income is less than ~~two hundred fifty percent (250%)~~ **four hundred percent (400%)** of the federal poverty level.

SECTION 16. IC 12-15-2-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 16.5. (a) An individual who is applying for Medicaid or receiving Medicaid is considered to have automatically assigned to the state the individual's rights, or the rights of any other person who is dependent upon the individual and eligible for Medicaid, to medical support and other third party payments for medical care for the duration of enrollment in the Medicaid program by the individual or the individual's dependent.**

(b) An individual's assignment under subsection (a):

(1) is effective only for services that are reimbursed by Medicaid; and

(2) does not apply to Medicare payments.

SECTION 17. IC 12-15-13-6, AS AMENDED BY P.L.15-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) Except as provided by IC 12-15-35-50, a notice or bulletin that is issued by:

(1) the office;

(2) a contractor of the office; or

(3) a managed care plan under the office;

concerning a change to the Medicaid program, **including a change to**

prior authorization, claims processing, payment rates, and medical policies, that does not require use of the rulemaking process under IC 4-22-2 may not become effective until ~~forty-five (45)~~ **thirty (30)** days after the date the notice or bulletin is communicated to the parties affected by the notice or bulletin.

(b) The office must provide a written notice or bulletin described in subsection (a) within five (5) business days after the date on the notice or bulletin.

(c) If the office, a contractor of the office, or a managed care plan under the office does not comply with the requirements in subsections (a) and (b):

(1) the notice or bulletin is void;

(2) a claim may not be denied because the claim does not comply with the void notice or bulletin; and

(3) the office, a contractor of the office, or a managed care plan under the office may not reissue the bulletin or notice for thirty (30) days unless the change is required by the federal government to be implemented earlier.

SECTION 18. IC 12-15-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) For purposes of disproportionate share eligibility, a provider's Medicaid inpatient utilization rate is a fraction (expressed as a percentage) where:

(1) the numerator is the provider's total number of Medicaid inpatient days in the most recent year for which an audited cost report is on file with the office; and

(2) the denominator is the total number of the provider's inpatient days in the most recent year for which an audited cost report is on file with the office.

(b) For purposes of this section, "Medicaid inpatient days" includes all acute care days attributable to individuals eligible for Medicaid benefits under a state plan approved under 42 U.S.C. 1396a on the days of service:

(1) whether attributable to individuals eligible for Medicaid in Indiana or any other state;

(2) even if the office did not make payment for any services, including inpatient days that are determined to be medically necessary but for which payment is denied by the office for other reasons; and

(3) including days attributable to Medicaid beneficiaries receiving services through a managed care organization or health maintenance organization.

~~However, a day is not a Medicaid inpatient day for purposes of this section if the patient was entitled to both Medicare Part A (as defined in 42 U.S.C. 1395c) and Medicaid on that day.~~

SECTION 19. IC 35-46-1-13, AS AMENDED BY P.L.141-2006, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) A person who:

(1) believes or has reason to believe that an endangered adult is the victim of battery, neglect, or exploitation as prohibited by this chapter, IC 35-42-2-1(a)(2)(C), or IC 35-42-2-1(a)(2)(E); and

(2) knowingly fails to report the facts supporting that belief to the

division of disability and rehabilitative services, the division of aging, the adult protective services unit designated under IC 12-10-3, or a law enforcement agency having jurisdiction over battery, neglect, or exploitation of an endangered adult;

commits a Class B misdemeanor.

(b) An officer or employee of the division or adult protective services unit who unlawfully discloses information contained in the records of the division of aging under IC 12-10-3-12 through ~~IC 12-10-3-16~~ **IC 12-10-3-15** commits a Class C infraction.

(c) A law enforcement agency that receives a report that an endangered adult is or may be a victim of battery, neglect, or exploitation as prohibited by this chapter, IC 35-42-2-1(a)(2)(C), or IC 35-42-2-1(a)(2)(E) shall immediately communicate the report to the adult protective services unit designated under IC 12-10-3.

(d) An individual who discharges, demotes, transfers, prepares a negative work performance evaluation, reduces benefits, pay, or work privileges, or takes other action to retaliate against an individual who in good faith makes a report under IC 12-10-3-9 concerning an endangered individual commits a Class A infraction.

SECTION 20. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2011]: IC 12-8-1-10; IC 12-8-2-12; IC 12-8-6-10; IC 12-8-8-8; IC 12-10-3-16; IC 12-10-4; IC 12-15-14.5.

SECTION 21. [EFFECTIVE JULY 1, 2011] **(a) The publisher of the Indiana Administrative Code shall transfer rules concerning aging from the title of the Indiana Administrative Code for the division of disability and rehabilitative services to a new title for the division of aging. The rules that are to be transferred under this subsection include the following:**

(1) 460 IAC 1.

(2) 460 IAC 1.2.

(3) 460 IAC 8.

(b) The office of the secretary of family and social services shall assist the publisher of the Indiana Administrative Code in identifying any other rules concerning aging that are to be transferred under subsection (a).

(c) This SECTION expires December 31, 2011.

SECTION 22. [EFFECTIVE JULY 1, 2011] **(a) During the 2011 legislative interim, the probate code study commission established by IC 2-5-16-2 shall study how the probate code should be amended to permit the sale of real estate located in Indiana to satisfy a claim by:**

(1) the office of Medicaid policy and planning;

(2) the United States;

(3) the state; or

(4) a subdivision of the state;

against a decedent regardless of whether letters testamentary or of administration are issued within five (5) months of the decedent's death.

(b) This SECTION expires December 31, 2011.

(Reference is to ESB 331 as reprinted April 19, 2011.)

Conference Committee Report
on
Engrossed Senate Bill 331

Signed by:

Senator Miller Chairperson	Representative Brown T
Senator Breaux	Representative Brown C
Senate Conferees	**House Conferees**