SENATE BILL No. 331

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-21.5-3-6; IC 10-13-3-27; IC 12-7-2-168; IC 12-8; 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 12-17.2-2-8; IC 29-1-7-15.1; IC 35-46-1-13.

Synopsis: FSSA matters. 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 child care 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. Eliminates the office of Medicaid policy and planning's ability to disregard certain contributions and allows the office to implement certain optional

(Continued next page)

Effective: July 1, 2011.

Miller

January 11, 2011, read first time and referred to Committee on Health and Provider Services.

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Digest Continued

federal provisions. 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. Removes language from the definition of "Medicaid inpatient days" concerning dually eligible individuals. Specifies that certain recreation programs for school age children may be exempt from licensure requirements. Transfers administrative rules concerning aging to the division of aging. 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.

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Introduced

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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SENATE BILL No. 331

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

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

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).

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(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

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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.

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

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Class A misdemeanor.

SECTION 3. IC 12-7-2-168 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 168. "Respite care" means the following:

(1) 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.

(2) For purposes of IC 12-22-1, the meaning set forth in IC 12-22-1-1.

SECTION 4. IC 12-9-2-3 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. However, rules adopted by the director must be approved by the family and social services committee established by IC 12-8-3-2 before submission to the attorney general under IC 4-22-2-31.

(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 ADDED BY P.L.141-2006, SECTION 38, 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

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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. However, rules adopted by the director must be approved by the family and social services committee established by IC 12-8-3-2 before submission to the attorney general under IC 4-22-2-31.

(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

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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.

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(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 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:~~

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~~(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

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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.

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(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.

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(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~~

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~~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):

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

(2) does not apply to Medicare payments.

SECTION 17. IC 12-15-2-23, AS ADDED BY P.L.14-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 23. (a) This section is effective beginning October 1, 2009.

(b) ~~Except as provided in subsection (c),~~ When the office conducts a look back (as described in 42 U.S.C. 1396p(c)) to determine, for purposes of eligibility, whether an individual improperly transferred assets, the office shall not consider in total one thousand two hundred dollars ($1,200) per year of contributions made by the individual to a:

(1) family member; or

(2) nonprofit organization;

as an improper transfer.

~~(c) The office may disregard a contribution by an individual if the individual can demonstrate that the transfer follows a pattern that existed for at least three (3) years before applying for Medicaid or was not for the purpose of fraud.~~

~~(d)~~ **(c)** Any rule adopted by the office of the secretary concerning a transfer of property may not apply to a transfer of property that occurred before the effective date of the rule.

SECTION 18. IC 12-15-2-23.5, AS ADDED BY P.L.14-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 23.5. (a) This section is effective beginning October 1, 2009.

~~(b) The office may not implement the optional provision allowed in 42 U.S.C 1396p(c)(1)(A) to apply penalties specified in 42 U.S.C. 1396p(c)(1)(A) to a noninstitutionalized individual or the spouse of the noninstitutionalized individual for the disposal of assets for less than fair market value.~~

~~(c)~~ **(b)** In implementing the federal Deficit Reduction Act of 2005, the office shall comply with the following:

(1) A rule adopted may not apply to the transfer of property or another transaction that occurred before the passage of the rule.

(2) The office may not require an individual to return all assets in order to reduce a penalty period for the transfer of assets. The office shall allow a penalty period to be proportionally reduced for a partial return of assets.

SECTION 19. 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

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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 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.

SECTION 20. IC 12-15-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) The office and an entity with which the office contracts for the payment of claims shall accept claims submitted on any of the following forms by an individual or organization that is a contractor or subcontractor of the office:

(1) ~~HCFA-1500.~~ **CMS-1500.**

(2) ~~HCFA-1450 (UB92).~~ **CMS-1450 (UB04).**

(3) American Dental Association (ADA) claim form.

(4) Pharmacy and compound drug form.

(b) The office and an entity with which the office contracts for the payment of claims:

(1) may designate as acceptable claim forms other than a form listed in subsection (a); and

(2) may not mandate the use of a crossover claim form.

SECTION 21. 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,

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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 22. IC 12-17.2-2-8, AS AMENDED BY P.L.1-2005, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. The division shall exempt from licensure the following programs:

(1) A program for children enrolled in grades kindergarten through 12 that is operated by the department of education or a public or private school.

(2) A program for children who become at least three (3) years of age as of December 1 of a particular school year (as defined in IC 20-18-2-17) that is operated by the department of education or a public or private school.

(3) A nonresidential program for a child that provides child care for less than four (4) hours a day.

(4) A recreation program for **school age** children that operates for not more than ninety (90) days in a calendar year.

(5) A program whose primary purpose is to provide social, recreational, or religious activities for school age children, such as scouting, boys club, girls club, sports, or the arts.

(6) A program operated to serve migrant children that:

(A) provides services for children from migrant worker families; and

(B) is operated during a single period of less than one hundred twenty (120) consecutive days during a calendar year.

(7) A child care ministry registered under IC 12-17.2-6.

(8) A child care home if the provider:

(A) does not receive regular compensation;

(B) cares only for children who are related to the provider;

(C) cares for less than six (6) children, not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative; or

(D) operates to serve migrant children.

(9) A child care program operated by a public or private secondary school that:

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(A) provides day care on the school premises for children of a student or an employee of the school;

(B) complies with health, safety, and sanitation standards as determined by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter; and

(C) substantially complies with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter.

(10) A school age child care program (commonly referred to as a latch key program) established under IC 20-26-5-2 that is operated by:

(A) the department of education;

(B) a public or private school; or

(C) a public or private organization under a written contract with:

(i) the department of education; or

(ii) a public or private school.

SECTION 23. IC 29-1-7-15.1, AS AMENDED BY P.L.95-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 15.1. (a) When it has been determined that a decedent died intestate and letters of administration have been issued upon the decedent's estate, no will shall be probated unless it is presented for probate before the court decrees final distribution of the estate.

(b) No real estate situate in Indiana of which any person may die seized shall be sold by the executor or administrator of the deceased person's estate to pay any debt or obligation of the deceased person, which is not:

(1) a lien of record in the county in which the real estate is situate; ~~or~~

(2) to pay any costs of administration of any decedent's estate; **or**

(3) a claim of the United States, the state, or a subdivision of the state;

unless letters testamentary or of administration upon the decedent's estate are taken out within five (5) months after the decedent's death.

(c) The title of any real estate or interest therein purchased in good faith and for a valuable consideration from the heirs of any person who

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died seized of the real estate shall not be affected or impaired by any devise made by the person of the real estate so purchased, unless:

(1) the will containing the devise has been probated and recorded in the office of the clerk of the court having jurisdiction within five (5) months after the death of the testator; or

(2) an action to contest the will's validity is commenced within the time provided by law and, as a result, the will is ultimately probated.

(d) The will of the decedent shall not be admitted to probate unless the will is presented for probate before the latest of the following dates:

(1) Three (3) years after the individual's death.

(2) Sixty (60) days after the entry of an order denying the probate of a will of the decedent previously offered for probate and objected to under section 16 of this chapter.

(3) Sixty (60) days after entry of an order revoking probate of a will of the decedent previously admitted to probate and contested under section 17 of this chapter.

However, in the case of an individual presumed dead under IC 29-2-5-1, the three (3) year period commences with the date the individual's death has been established by appropriate legal action.

SECTION 24. 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

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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 25. 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 26. [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.

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