
SENATE BILL No. 491

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-28-10-4.

Synopsis: Health facility third party dispute resolution. Establishes a third party dispute resolution process that a health facility may use to appeal a deficiency finding in the health facility's state department of health (state department) survey report. Requires the state department to contract with an independent third party to conduct the third party dispute resolution process. Requires the state department and the independent third party to collect and report specified statistical data to the select joint commission on Medicaid oversight and long term care trade associations.

Effective: July 1, 2011.

Becker, Leising

January 13, 2011, read first time and referred to Committee on Health and Provider Services.

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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. 491



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

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

1 SECTION 1. IC 16-28-10-4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]: **Sec. 4. (a) The state department shall establish a
4 voluntary third party dispute resolution process for use by a health
5 facility in appealing a state department finding in the health
6 facility's survey report. If a health facility chooses to use the
7 voluntary third party dispute resolution process, the state
8 department shall participate in the process. The state department
9 shall contract with an independent third party to conduct the
10 voluntary third party dispute resolution process.**

11 **(b) The state department shall include the following in the
12 voluntary third party dispute resolution process:**

13 **(1) Requirements set forth in 42 CFR 488.331 for informal
14 dispute resolutions.**

15 **(2) A requirement that the state department send to the health
16 facility by certified mail:**

17 **(A) a statement of deficiencies committed by the health**



1 facility not later than ten (10) business days after the
 2 conclusion of the survey;
 3 (B) notice that the health facility may participate in third
 4 party dispute resolution; and
 5 (C) an explanation of the third party dispute resolution
 6 process.
 7 (3) The time frames set forth in subsections (c) and (d).
 8 (c) A health facility shall, not more than ten (10) calendar days
 9 after receipt of the materials described in subsection (b)(2), send to
 10 the state department the following:
 11 (1) A plan of correction of any deficiencies.
 12 (2) Written notice of the health facility's request to participate
 13 in the third party dispute resolution process to refute a
 14 deficiency cited in the statement of deficiency.
 15 (d) The third party that contracts with the state department
 16 under subsection (a) shall hold an independent dispute resolution
 17 review not later than thirty (30) calendar days after the state
 18 department's receipt of the notice described in subsection (c)(2).
 19 The review must include the following:
 20 (1) An opportunity for the health facility to provide additional
 21 information or clarification in support of the health facility's
 22 contention that the cited deficiency was in error.
 23 (2) At least one (1) of the following reviews:
 24 (A) A review by the third party contractor of written
 25 information submitted by the health facility.
 26 (B) A telephone conference between the third party
 27 contractor and a representative of the health facility.
 28 (C) A face-to-face conference between the third party
 29 contractor and a representative of the health facility.
 30 (e) A health facility that requests under subsection (c) to
 31 participate in the third party dispute resolution process may:
 32 (1) request that the dispute resolution review be held at the
 33 health facility; and
 34 (2) be accompanied by counsel during the dispute resolution
 35 review.
 36 The third party contractor shall grant a request described in
 37 subdivision (1).
 38 (f) The state department and health facility shall:
 39 (1) cooperate with a third party contractor in the third party
 40 contractor's review of information; and
 41 (2) provide to the third party contractor any additional
 42 information requested by the third party contractor.

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1 (g) A third party contractor shall, not later than thirty (30)
2 business days after a dispute resolution review described in this
3 section:

4 (1) make a determination based on the information presented
5 to the third party contractor by the state department and the
6 health facility; and

7 (2) transmit written notice of the determination and the
8 rationale for the determination to the health facility and the
9 state department.

10 (h) If a third party contractor's determination described in
11 subsection (g)(1) is that a deficiency exists, the health facility shall
12 submit a plan of correction to the state department not later than
13 ten (10) business days after receipt of the written notice under
14 subsection (g)(2).

15 (i) If the state department disagrees with and reverses a third
16 party contractor's determination described in subsection (g)(1), the
17 state department shall, not later than ten (10) calendar days after
18 receipt of the written notice under subsection (g)(2), transmit to the
19 health facility written notice of the state department's decision and
20 rationale for the reversal. If the state department determines that
21 the deficiency will remain against the facility, the facility shall, not
22 later than ten (10) business days after receipt of the written notice
23 under this subsection, submit a plan of correction to the state
24 department.

25 (j) The state department may not disclose or report to any
26 agency any information concerning a deficiency that is the subject
27 of a dispute under this section until a determination is made under
28 subsection (g) or (i) and, if applicable, the health facility has
29 responded with a plan of correction.

30 (k) The state department shall pay for any costs incurred under
31 this section from the fund administered by the state department
32 into which civil money penalties required by 42 U.S.C. 1396r(h) are
33 deposited.

34 (l) Every six (6) months after the effective date of a contract
35 between the state department and an independent third party to
36 conduct a voluntary third party dispute resolution process, the
37 state department and the independent third party contracted with
38 to conduct the voluntary third party dispute resolution process
39 under subsection (a) shall report to the select joint commission on
40 Medicaid oversight established by IC 2-5-26-3 in writing and in an
41 electronic format under IC 5-14-6 on the statistical utilization and
42 outcomes of the process. The state department shall make the

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1 **statistical utilization and outcomes data collected available to a**
2 **long term care trade association on a quarterly basis.**
3 **(m) The state department may adopt rules under IC 4-22-2 to**
4 **implement this section.**

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