

HOUSE BILL No. 1278

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-10-6.

Synopsis: Grocery allowance. Provides that grocery assistance must be included in considering payments for residential care assistance.

Effective: July 1, 2011.

Crawford

January 12, 2011, read first time and referred to Committee on Family, Children and Human Affairs.

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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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HOUSE BILL No. 1278



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:

1 SECTION 1. IC 12-10-6-2.1, AS AMENDED BY P.L.121-2008,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 2.1. (a) An individual who is incapable of residing
4 in the individual's own home may apply for residential care assistance
5 under this section. The determination of eligibility for residential care
6 assistance is the responsibility of the division. Except as provided in
7 subsections (g) and (i), an individual is eligible for residential care
8 assistance if the division determines that the individual:

- 9 (1) is a recipient of Medicaid or the federal Supplemental Security
10 Income program;
- 11 (2) is incapable of residing in the individual's own home because
12 of dementia, mental illness, or a physical disability;
- 13 (3) requires a degree of care less than that provided by a health
14 care facility licensed under IC 16-28;
- 15 (4) can be adequately cared for in a residential care setting; and
- 16 (5) has not made any asset transfer prohibited under the state plan
17 or in 42 U.S.C. 1396p(c) in order to be eligible for Medicaid.



1 (b) Individuals with mental retardation may not be admitted to a
2 home or facility that provides residential care under this section.

3 (c) A service coordinator employed by the division may:
4 (1) evaluate a person seeking admission to a home or facility
5 under subsection (a); or
6 (2) evaluate a person who has been admitted to a home or facility
7 under subsection (a), including a review of the existing
8 evaluations in the person's record at the home or facility.

9 If the service coordinator determines the person evaluated under this
10 subsection has mental retardation, the service coordinator may
11 recommend an alternative placement for the person.

12 (d) Except as provided in section 5 of this chapter, residential care
13 consists of only room, board, **groceries**, and laundry, along with
14 minimal administrative direction. **The division shall consider the**
15 **local housing costs when considering the cost of providing room**
16 **assistance.** State financial assistance may be provided for such care in
17 a boarding or residential home of the applicant's choosing that is
18 licensed under IC 16-28 or a Christian Science facility listed and
19 certified by the Commission for Accreditation of Christian Science
20 Nursing Organizations/Facilities, Inc., that meets certain life safety
21 standards considered necessary by the state fire marshal. Payment for
22 such care shall be made to the provider of the care according to
23 division directives and supervision. The amount of nonmedical
24 assistance to be paid on behalf of a recipient living in a boarding home,
25 residential home, or Christian Science facility shall be based on the
26 daily rate established by the division. The rate for facilities that are
27 referred to in this section and licensed under IC 16-28 may not exceed
28 an upper rate limit established by a rule adopted by the division. The
29 recipient may retain from the recipient's income a monthly personal
30 allowance of fifty-two dollars (\$52). This amount is exempt from
31 income eligibility consideration by the division and may be exclusively
32 used by the recipient for the recipient's personal needs. However, if the
33 recipient's income is less than the amount of the personal allowance,
34 the division shall pay to the recipient the difference between the
35 amount of the personal allowance and the recipient's income. A reserve
36 or an accumulated balance from such a source, together with other
37 sources, may not be allowed to exceed the state's resource allowance
38 allowed for adults eligible for state supplemental assistance or
39 Medicaid as established by the rules of the office of Medicaid policy
40 and planning.

41 (e) In addition to the amount that may be retained as a personal
42 allowance under this section, an individual shall be allowed to retain

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1 an amount equal to the individual's state and local income tax liability.
 2 The amount that may be retained during a month may not exceed
 3 one-third (1/3) of the individual's state and local income tax liability for
 4 the calendar quarter in which that month occurs. This amount is
 5 exempt from income eligibility consideration by the division. The
 6 amount retained shall be used by the individual to pay any state or local
 7 income taxes owed.

8 (f) In addition to the amounts that may be retained under
 9 subsections (d) and (e), an eligible individual may retain a Holocaust
 10 victim's settlement payment. The payment is exempt from income
 11 eligibility consideration by the division.

12 (g) The rate of payment to the provider shall be determined in
 13 accordance with a prospective prenegotiated payment rate predicated
 14 on a reasonable cost related basis, with a growth of profit factor, as
 15 determined in accordance with generally accepted accounting
 16 principles and methods, and written standards and criteria, as
 17 established by the division. The division shall establish an
 18 administrative appeal procedure to be followed if rate disagreement
 19 occurs if the provider can demonstrate to the division the necessity of
 20 costs in excess of the allowed or authorized fee for the specific
 21 boarding or residential home. The amount may not exceed the
 22 maximum established under subsection (d).

23 (h) The personal allowance for one (1) month for an individual
 24 described in subsection (a) is the amount that an individual would be
 25 entitled to retain under subsection (d) plus an amount equal to one-half
 26 (1/2) of the remainder of:

- 27 (1) gross earned income for that month; minus
- 28 (2) the sum of:
 - 29 (A) sixteen dollars (\$16); plus
 - 30 (B) the amount withheld from the person's paycheck for that
 31 month for payment of state income tax, federal income tax,
 32 and the tax prescribed by the federal Insurance Contribution
 33 Act (26 U.S.C. 3101 et seq.); plus
 - 34 (C) transportation expenses for that month; plus
 - 35 (D) any mandatory expenses required by the employer as a
 36 condition of employment.

37 (i) An individual who, before September 1, 1983, has been admitted
 38 to a home or facility that provides residential care under this section is
 39 eligible for residential care in the home or facility.

40 (j) The director of the division may contract with the division of
 41 mental health and addiction or the division of disability and
 42 rehabilitative services to purchase services for individuals with a

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1 mental illness or a developmental disability by providing money to
2 supplement the appropriation for community residential care programs
3 established under IC 12-22-2 or community residential programs
4 established under IC 12-11-1.1-1.

5 (k) A person with a mental illness may not be placed in a Christian
6 Science facility listed and certified by the Commission for
7 Accreditation of Christian Science Nursing Organizations/Facilities,
8 Inc., unless the facility is licensed under IC 16-28.

9 SECTION 2. IC 12-10-6-2.2 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2011]: **Sec. 2.2. (a) An individual who receives residential care
12 assistance under section 2.1 of this chapter is eligible for an
13 additional state assistance payment of at least two hundred dollars
14 (\$200) each month for necessary items, including groceries.**

15 **(b) Beginning July 1, 2013, and every two (2) years thereafter,
16 the division shall consider the rate of change in the Consumer Price
17 Index for All Urban Consumers, published by the United States
18 Department of Labor, for the two (2) year period and adjust the
19 allowance provided under subsection (a) to reflect the actual and
20 anticipated effect of inflation.**

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