
SENATE BILL No. 310

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2; IC 12-15; IC 35-43-5.

Synopsis: Medicaid fraud. Provides that a person who is convicted of public assistance fraud or tax fraud is ineligible for medical assistance for a specified time. Allows the office of Medicaid policy and planning (office) to adopt rules to establish a process for suspending a person from receiving medical assistance if the office has reasonable suspicion that the person has committed public assistance fraud. Requires a Medicaid recipient to notify the office within 30 days after the recipient asserts a claim or files a legal action against a third party for medical services costs that were paid for by the office. Requires the office to send: (1) an itemized list of the medical services provided to the recipient; and (2) a notice of intent to perfect a lien for the expenses; to the third party. Prohibits certain actions from becoming final before first allowing the office written notice and a reasonable opportunity to perfect a right of recovery. Repeals a provision requiring the office to send an itemized statement of medical expenses for certain recipients to perfect a lien. Specifies that "public assistance or relief" includes medical assistance. Includes applicants and recipients of public assistance or relief in the crime of welfare fraud.

Effective: July 1, 2012.

Hershman, Miller

January 5, 2012, read first time and referred to Committee on Health and Provider Services.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 310



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

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

1 SECTION 1. IC 12-7-2-128.3 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2012]: **Sec. 128.3. "Medical assistance" has**
4 **the meaning set forth in 42 U.S.C. 1396d(a).**

5 SECTION 2. IC 12-7-2-137, AS AMENDED BY P.L.145-2006,
6 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2012]: Sec. 137. (a) "Person", except as provided in
8 subsections (b) ~~and (c)~~, **through (d)** means an association, a
9 corporation, a limited liability company, a governmental entity, an
10 individual, or a partnership.

11 (b) "Person", for purposes of IC 12-13-14, has the meaning set forth
12 in IC 12-13-14-1.

13 (c) "Person", for purposes of IC 12-17.2, means an individual who
14 is at least twenty-one (21) years of age, a corporation, a partnership, a
15 voluntary association, or other entity.

16 (d) **"Person", for purposes of IC 12-15-2-20, means an**
17 **individual who is at least twenty-one (21) years of age and who is:**



1 **(1) applying, on the individual's behalf, for; or**
 2 **(2) receiving;**
 3 **medical assistance.**

4 SECTION 3. IC 12-7-2-152.5 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2012]: **Sec. 152.5. "Public assistance", for**
 7 **purposes of IC 12-15-2-20, means any payment made, service**
 8 **rendered, hospitalization provided, or other benefit extended to a**
 9 **person by a governmental entity from public funds, including the**
 10 **following:**

- 11 **(1) Medical assistance.**
 12 **(2) Township assistance.**
 13 **(3) Food stamps.**
 14 **(4) Direct relief.**
 15 **(5) Unemployment compensation.**
 16 **(6) Any other form of support or aid.**

17 SECTION 4. IC 12-15-2-20 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 20. (a) This section
 19 does not apply to a provider (as defined in IC 12-7-2-149.1(2)).

20 (b) A person convicted of an offense under: ~~IC 35-43-5-7.1~~

- 21 **(1) IC 35-43-5-7 concerning the application for, or receipt of,**
 22 **public assistance; or**
 23 **(2) IC 6-3-6-11 concerning tax fraud;**

24 is ineligible to receive Medicaid **medical** assistance under this article
 25 for ~~ten (10) years after the conviction.~~ **the applicable period under**
 26 **subsection (c).**

27 **(c) A person described in subsection (b) is ineligible to receive**
 28 **medical assistance for the following period:**

- 29 **(1) One (1) year if the person is convicted of a misdemeanor.**
 30 **(2) Ten (10) years if the person is convicted of a felony.**

31 **(d) The ineligibility period to receive medical assistance for a**
 32 **person described in subsection (b) begins either:**

- 33 **(1) on the date the individual is sentenced, if the individual's**
 34 **sentence does not include incarceration; or**
 35 **(2) on the date the individual is released from incarceration.**

36 **(e) The office may adopt rules under IC 4-22-2 to establish a**
 37 **process to suspend a person from receiving medical assistance if**
 38 **the office has a reasonable suspicion that the person has engaged**
 39 **in fraud described in subsection (b)(1).**

40 SECTION 5. IC 12-15-8-3 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A lien under this
 42 chapter is not effective unless the office takes the following actions

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1 before the party alleged to be liable has concluded a final settlement
2 with the injured, ill, or diseased person or the person's attorney or legal
3 representative as compensation for the person's injury, illness, or
4 disease:

5 (1) Filing in the Marion County circuit court a written notice
6 stating the following:

7 (A) Notice of the eligibility of the injured, ill, or diseased
8 person for Medicaid.

9 (B) The name and address of the injured, ill, or diseased
10 person.

11 (C) The name of the person, firm, limited liability company, or
12 corporation alleged to be liable to the injured, ill, or diseased
13 person.

14 (2) Sending to the person, firm, limited liability company, or
15 corporation alleged to be liable, by registered or certified mail,
16 **the following:**

17 (A) A copy of the notice required by subdivision (1). ~~with~~

18 (B) A statement of the date of filing of the notice.

19 SECTION 6. IC 12-15-8-4.5 IS ADDED TO THE INDIANA CODE
20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
21 1, 2012]: **Sec. 4.5. (a) Not later than thirty (30) days after:**

22 **(1) asserting a claim; or**

23 **(2) filing a legal action;**

24 **against a third party for costs related to medical services paid by**
25 **the office or a contractor of the office on behalf of the recipient, the**
26 **Medicaid recipient or the recipient's guardian shall notify the**
27 **office or the office's contractor in writing of the action.**

28 **(b) The written notice required by subsection (a) must include**
29 **the following information:**

30 **(1) The name of the third party.**

31 **(2) The address of the third party.**

32 **(3) The dates of the medical services, if known, for which the**
33 **recipient is seeking recovery.**

34 **(4) The name of the third party's insurance carrier, if known.**

35 **(5) Authorization for release of the recipient's health records**
36 **concerning the medical services for which the recipient is**
37 **seeking recovery.**

38 **(c) Not more than twenty-one (21) days after receiving the**
39 **written notice required by subsection (a) and the release of health**
40 **records under subsection (b)(5), the office or the office's contractor**
41 **shall send to the third party described in subsection (a):**

42 **(1) an itemized statement of the medical expenses paid by the**

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1 office or the office's contractor for the medical services; and
 2 (2) notice of the office's intent to perfect a lien for the
 3 expenses described in subdivision (1) against a person
 4 described in section 4(1) through 4(3) of this chapter.

5 (d) In an action or claim by a Medicaid recipient or the
 6 recipient's guardian in which the office has a right of recovery:

- 7 (1) a settlement;
 8 (2) a compromise;
 9 (3) a judgment;
 10 (4) an award; or
 11 (5) a recovery;

12 may not be made final without first giving the office written notice
 13 as required by subsection (a) and a reasonable opportunity for the
 14 office to perfect a right of recovery.

15 (e) A Medicaid recipient may be subject to a penalty under
 16 IC 35-43-5-7 for knowingly failing to give the notice required
 17 under this section.

18 SECTION 7. IC 12-15-8-5 IS REPEALED [EFFECTIVE JULY 1,
 19 2012]. Sec. 5: Not more than twenty-one (21) days after the filing of the
 20 notice required under section 3(1) of this chapter, the office shall send
 21 to persons or entities listed in section 4(1) and 4(3) of this chapter an
 22 itemized statement of the medical expenses paid by the office for which
 23 the office seeks to perfect a lien.

24 SECTION 8. IC 35-43-5-1, AS AMENDED BY P.L.137-2009,
 25 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2012]: Sec. 1. (a) The definitions set forth in this section apply
 27 throughout this chapter.

28 (b) "Claim statement" means an insurance policy, a document, or a
 29 statement made in support of or in opposition to a claim for payment
 30 or other benefit under an insurance policy, or other evidence of
 31 expense, injury, or loss. The term includes statements made orally, in
 32 writing, or electronically, including the following:

- 33 (1) An account.
 34 (2) A bill for services.
 35 (3) A bill of lading.
 36 (4) A claim.
 37 (5) A diagnosis.
 38 (6) An estimate of property damages.
 39 (7) A hospital record.
 40 (8) An invoice.
 41 (9) A notice.
 42 (10) A proof of loss.

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- 1 (11) A receipt for payment.
 2 (12) A physician's records.
 3 (13) A prescription.
 4 (14) A statement.
 5 (15) A test result.
 6 (16) X-rays.
- 7 (c) "Coin machine" means a coin box, vending machine, or other
 8 mechanical or electronic device or receptacle designed:
 9 (1) to receive a coin, bill, or token made for that purpose; and
 10 (2) in return for the insertion or deposit of a coin, bill, or token
 11 automatically:
 12 (A) to offer, provide, or assist in providing; or
 13 (B) to permit the acquisition of;
 14 some property.
- 15 (d) "Credit card" means an instrument or device (whether known as
 16 a credit card or charge plate, or by any other name) issued by an issuer
 17 for use by or on behalf of the credit card holder in obtaining property.
- 18 (e) "Credit card holder" means the person to whom or for whose
 19 benefit the credit card is issued by an issuer.
- 20 (f) "Customer" means a person who receives or has contracted for
 21 a utility service.
- 22 (g) "Drug or alcohol screening test" means a test that:
 23 (1) is used to determine the presence or use of alcohol, a
 24 controlled substance, or a drug in a person's bodily substance; and
 25 (2) is administered in the course of monitoring a person who is:
 26 (A) incarcerated in a prison or jail;
 27 (B) placed in a community corrections program;
 28 (C) on probation or parole;
 29 (D) participating in a court ordered alcohol or drug treatment
 30 program; or
 31 (E) on court ordered pretrial release.
- 32 (h) "Entrusted" means held in a fiduciary capacity or placed in
 33 charge of a person engaged in the business of transporting, storing,
 34 lending on, or otherwise holding property of others.
- 35 (i) "Identifying information" means information that identifies a
 36 person, including a person's:
 37 (1) name, address, date of birth, place of employment, employer
 38 identification number, mother's maiden name, Social Security
 39 number, or any identification number issued by a governmental
 40 entity;
 41 (2) unique biometric data, including the person's fingerprint,
 42 voice print, or retina or iris image;

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- 1 (3) unique electronic identification number, address, or routing
 2 code;
 3 (4) telecommunication identifying information; or
 4 (5) telecommunication access device, including a card, a plate, a
 5 code, a telephone number, an account number, a personal
 6 identification number, an electronic serial number, a mobile
 7 identification number, or another telecommunications service or
 8 device or means of account access that may be used to:
 9 (A) obtain money, goods, services, or any other thing of value;
 10 or
 11 (B) initiate a transfer of funds.
- 12 (j) "Insurance policy" includes the following:
 13 (1) An insurance policy.
 14 (2) A contract with a health maintenance organization (as defined
 15 in IC 27-13-1-19) or a limited service health maintenance
 16 organization (as defined in IC 27-13-1-27).
 17 (3) A written agreement entered into under IC 27-1-25.
- 18 (k) "Insurer" has the meaning set forth in IC 27-1-2-3(x). The term
 19 also includes the following:
 20 (1) A reinsurer.
 21 (2) A purported insurer or reinsurer.
 22 (3) A broker.
 23 (4) An agent of an insurer, a reinsurer, a purported insurer or
 24 reinsurer, or a broker.
 25 (5) A health maintenance organization.
 26 (6) A limited service health maintenance organization.
- 27 (l) "Manufacturer" means a person who manufactures a recording.
 28 The term does not include a person who manufactures a medium upon
 29 which sounds or visual images can be recorded or stored.
- 30 (m) "Make" means to draw, prepare, complete, counterfeit, copy or
 31 otherwise reproduce, or alter any written instrument in whole or in part.
- 32 (n) "Metering device" means a mechanism or system used by a
 33 utility to measure or record the quantity of services received by a
 34 customer.
- 35 (o) "Public relief or assistance" means any payment made, service
 36 rendered, hospitalization provided, or other benefit extended to a
 37 person by a governmental entity from public funds and includes
 38 **medical assistance**, township assistance, food stamps, direct relief,
 39 unemployment compensation, and any other form of support or aid.
- 40 (p) "Recording" means a tangible medium upon which sounds or
 41 visual images are recorded or stored. The term includes the following:
 42 (1) An original:

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- 1 (A) phonograph record;
 2 (B) compact disc;
 3 (C) wire;
 4 (D) tape;
 5 (E) audio cassette;
 6 (F) video cassette; or
 7 (G) film.
- 8 (2) Any other medium on which sounds or visual images are or
 9 can be recorded or otherwise stored.
- 10 (3) A copy or reproduction of an item in subdivision (1) or (2)
 11 that duplicates an original recording in whole or in part.
- 12 (q) "Slug" means an article or object that is capable of being
 13 deposited in a coin machine as an improper substitute for a genuine
 14 coin, bill, or token.
- 15 (r) "Synthetic identifying information" means identifying
 16 information that identifies:
 17 (1) a false or fictitious person;
 18 (2) a person other than the person who is using the information;
 19 or
 20 (3) a combination of persons described under subdivisions (1) and
 21 (2).
- 22 (s) "Utility" means a person who owns or operates, for public use,
 23 any plant, equipment, property, franchise, or license for the production,
 24 storage, transmission, sale, or delivery of electricity, water, steam,
 25 telecommunications, information, or gas.
- 26 (t) "Written instrument" means a paper, a document, or other
 27 instrument containing written matter and includes money, coins,
 28 tokens, stamps, seals, credit cards, badges, trademarks, medals, retail
 29 sales receipts, labels or markings (including a universal product code
 30 (UPC) or another product identification code), or other objects or
 31 symbols of value, right, privilege, or identification.
- 32 SECTION 9. IC 35-43-5-7 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) ~~A person~~ **An**
 34 **applicant or recipient of public relief or assistance** who knowingly
 35 or intentionally:
 36 (1) obtains public relief or assistance by means of impersonation,
 37 fictitious transfer, false or misleading oral or written statement,
 38 ~~fraudulent~~ **fraudulent** conveyance, or other fraudulent means;
 39 (2) acquires, possesses, uses, transfers, sells, trades, issues, or
 40 disposes of:
 41 (A) an authorization document to obtain public relief or
 42 assistance; or

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- 1 (B) public relief or assistance;
 2 except as authorized by law;
 3 (3) uses, transfers, acquires, issues, or possesses a blank or
 4 incomplete authorization document to participate in public relief
 5 or assistance programs, except as authorized by law;
 6 (4) counterfeits or alters an authorization document to receive
 7 public relief or assistance, or knowingly uses, transfers, acquires,
 8 or possesses a counterfeit or altered authorization document to
 9 receive public relief or assistance; or
 10 (5) conceals information for the purpose of receiving public relief
 11 or assistance to which he is not entitled;
 12 commits welfare fraud, a Class A misdemeanor, except as provided in
 13 subsection (b).
 14 (b) The offense is:
 15 (1) a Class D felony if:
 16 (A) the amount of public relief or assistance involved is more
 17 than two hundred fifty dollars (\$250) but less than two
 18 thousand five hundred dollars (\$2,500); or
 19 (B) the amount involved is not more than two hundred fifty
 20 dollars (\$250) and the person has a prior conviction of welfare
 21 fraud under this section; and
 22 (2) a Class C felony if the amount of public relief or assistance
 23 involved is two thousand five hundred dollars (\$2,500) or more,
 24 regardless of whether the person has a prior conviction of welfare
 25 fraud under this section.
 26 (c) Whenever a person is convicted of welfare fraud under this
 27 section, the clerk of the sentencing court shall certify to the appropriate
 28 state agency and the appropriate agency of the county of the defendant's
 29 residence:
 30 (1) his conviction; and
 31 (2) whether the defendant is placed on probation and restitution
 32 is ordered under IC 35-38-2.

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