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# HOUSE BILL No. 1428

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-7-2; IC 12-9.5; IC 12-10; IC 12-15-5-1; IC 12-15-46-3.

**Synopsis:** Home and community based services and brain injury services. Establishes the division of brain injury and cognitive rehabilitative services (division) within the office of the secretary of family and social services and sets forth the division's duties. Establishes the office of client rights and protections within the division. Establishes the program and policy review advisory committee. Requires Medicaid to include traumatic brain injury services. Requires the office of Medicaid policy and planning to apply to the United States Department of Health and Human Services for a Medicaid waiver to provide brain injury services to individuals with traumatic brain injuries and other acquired brain injuries. Requires the division of aging to meet specified requirements in the distribution of funds for the community and home options to institutional care for the elderly and disabled program (CHOICE) to area agencies on aging. Specifies that funds that are appropriated to CHOICE: (1) may not be used as a match for Medicaid waiver services or for any other purpose; and (2) may not revert to the state general fund. Specifies funds available for home and community based long term care services (HCBS). Requires the division of aging to provide HCBS statewide and specifies that the services available must include the services included in the program on January 1, 2013. Specifies that an individual who is eligible for HCBS must receive services specified in a care plan that has been agreed to by the individual unless the individual specifies in writing that the individual would like to receive care in a nursing facility or institutional setting. Requires the office of the secretary to eliminate the waiting list of eligible individuals seeking HCBS and requires an individual who was on the waiting list on July 1, 2013, to  
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**Effective:** Upon passage; July 1, 2013.

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## Saunders, Bacon

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January 22, 2013, read first time and referred to Committee on Public Health.

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begin receiving HCBS by July 1, 2014. Requires an eligible individual to receive HCBS services within 29 days after a determination of eligibility. Allows an area agency on aging to make the initial eligibility determination for specified programs. Specifies conditions that must be met before an individual may be transitioned from HCBS to a nursing facility or institutional care. Requires caregiver support in specified circumstances. Requires the division of aging to establish: (1) an independent provider of home and community based services training and certification program; (2) a statewide registry of independent HCBS providers; (3) fiscal intermediary services to assist self-directed care individuals; and (4) a self-directed care telephone hotline.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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# HOUSE BILL No. 1428



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 12-7-2-1.1 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: **Sec. 1.1. "Acquired brain injury", for purposes**
- 4 **of IC 12-9.5, has the meaning set forth in IC 12-9.5-5-1.**
- 5 SECTION 2. IC 12-7-2-23.5 IS ADDED TO THE INDIANA CODE
- 6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 7 UPON PASSAGE]: **Sec. 23.5. "Brain injury services", for purposes**
- 8 **of IC 12-9.5, has the meaning set forth in IC 12-9.5-5-2.**
- 9 SECTION 3. IC 12-7-2-69, AS AMENDED BY P.L.6-2012,
- 10 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 11 UPON PASSAGE]: Sec. 69. (a) "Division", except as provided in
- 12 subsections (b) and (c), refers to any of the following:
- 13 (1) The division of disability and rehabilitative services
- 14 established by IC 12-9-1-1.
- 15 (2) The division of aging established by IC 12-9.1-1-1.
- 16 **(3) The division of brain injury and cognitive rehabilitative**
- 17 **services established by IC 12-9.5-1-1.**



- 1           ~~(3)~~ **(4)** The division of family resources established by  
 2           IC 12-13-1-1.  
 3           ~~(4)~~ **(5)** The division of mental health and addiction established by  
 4           IC 12-21-1-1.  
 5       (b) The term refers to the following:  
 6           (1) For purposes of the following statutes, the division of  
 7           disability and rehabilitative services established by IC 12-9-1-1:  
 8               (A) IC 12-9.  
 9               (B) IC 12-11.  
 10              (C) IC 12-12.  
 11              (D) IC 12-12.5.  
 12              (E) IC 12-12.7.  
 13              (F) IC 12-15-46-2.  
 14              (G) IC 12-28-5.  
 15           (2) For purposes of the following statutes, the division of aging  
 16           established by IC 12-9.1-1-1:  
 17               (A) IC 12-9.1.  
 18               (B) IC 12-10.  
 19           **(3) For purposes of IC 12-9.5, the division of brain injury and**  
 20           **cognitive rehabilitative services established by IC 12-9.5-1-1.**  
 21           ~~(3)~~**(4)** For purposes of the following statutes, the division of  
 22           family resources established by IC 12-13-1-1:  
 23               (A) IC 12-13.  
 24               (B) IC 12-14.  
 25               (C) IC 12-15.  
 26               (D) IC 12-16.  
 27               (E) IC 12-17.2.  
 28               (F) IC 12-18.  
 29               (G) IC 12-19.  
 30               (H) IC 12-20.  
 31           ~~(4)~~**(5)** For purposes of the following statutes, the division of  
 32           mental health and addiction established by IC 12-21-1-1:  
 33               (A) IC 12-21.  
 34               (B) IC 12-22.  
 35               (C) IC 12-23.  
 36               (D) IC 12-25.  
 37           (c) With respect to a particular state institution, the term refers to  
 38           the division whose director has administrative control of and  
 39           responsibility for the state institution.  
 40           (d) For purposes of IC 12-24, IC 12-26, and IC 12-27, the term  
 41           refers to the division whose director has administrative control of and  
 42           responsibility for the appropriate state institution.

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1 SECTION 4. IC 12-7-2-192.8 IS ADDED TO THE INDIANA  
2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: **Sec. 192.8. "Traumatic brain  
4 injury", for purposes of IC 12-9.5, has the meaning set forth in  
5 IC 12-9.5-5-3.**

6 SECTION 5. IC 12-9.5 IS ADDED TO THE INDIANA CODE AS  
7 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON  
8 PASSAGE]:

9 **ARTICLE 9.5. DIVISION OF BRAIN INJURY AND**  
10 **COGNITIVE REHABILITATIVE SERVICES**

11 **Chapter 1. Establishment of Division**

12 **Sec. 1. The division of brain injury and cognitive rehabilitative**  
13 **services is established within the office of the secretary of family**  
14 **and social services.**

15 **Sec. 2. IC 12-8-8.5 applies to the division.**

16 **Sec. 3. The office of client rights and protections established by**  
17 **IC 12-9.5-4-1 is part of the division.**

18 **Chapter 2. Director of Division and Personnel**

19 **Sec. 1. The division shall be administered by a director**  
20 **appointed under IC 12-8-8.5-1.**

21 **Sec. 2. IC 12-8-8.5 applies to the director.**

22 **Sec. 3. The director may do the following:**

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

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

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

30 **(4) Accept voluntary and uncompensated services.**

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

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

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

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

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

40 **Sec. 4. The director may, with the approval of the budget**  
41 **agency, hire the personnel necessary to perform the duties of the**  
42 **division.**

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1           **Sec. 5. (a) If a member, an officer, or an employee of the division**  
 2 **is accused of an offense or sued for civil damages because of an act**  
 3 **performed:**

4           **(1) within the course of the individual's employment; or**

5           **(2) under the authority or order of a superior officer;**

6 **the attorney general shall defend the individual in an action for**  
 7 **civil damages. If the action or proceeding is criminal in nature, the**  
 8 **governor shall designate counsel to represent and defend the**  
 9 **accused, and the state is financially responsible for the expense of**  
 10 **the defense.**

11           **(b) This section does not do either of the following:**

12           **(1) Deprive an individual of the right to select defense counsel**  
 13 **of the individual's choice at the individual's expense.**

14           **(2) Relieve any person from responsibility in civil damages.**

15           **Chapter 3. Duties of Division**

16           **Sec. 1. (a) The division shall establish a statewide network of**  
 17 **brain injury and cognitive rehabilitative services for residents who**  
 18 **have traumatic brain injuries and other acquired brain injuries**  
 19 **and cognitive impairments resulting from the brain injuries with**  
 20 **the following objectives:**

21           **(1) Assist an individual with a brain injury or cognitive**  
 22 **impairment to receive necessary services for recovery to the**  
 23 **extent possible to return the individual to the condition the**  
 24 **individual was in before the brain injury.**

25           **(2) Continue the individual's rehabilitation for as long as**  
 26 **necessary.**

27           **(3) Reestablish, to the extent possible, the individual's**  
 28 **independence through home and community based service**  
 29 **settings.**

30           **(4) Assist the individual with ongoing rehabilitative,**  
 31 **employment, cognitive-social, housing, and transportation**  
 32 **needs.**

33           **(b) The statewide network of services must include the**  
 34 **following:**

35           **(1) Trauma care.**

36           **(2) Acute care.**

37           **(3) Post-acute care.**

38           **(4) Rehabilitative services.**

39 **These services must be available to any resident who qualifies for**  
 40 **the services under this article.**

41           **(c) The division shall collaborate with public and private entities**  
 42 **to provide the services described in this section, including the**

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following entities:

- (1) Medical community.
- (2) Rehabilitation facilities.
- (3) Therapists.
- (4) Support groups.
- (5) Community-based groups.

**Chapter 4. The Office of Client Rights and Protections**

**Sec. 1. (a) The office of client rights and protections is established as a part of the division.**

**(b) The director of the division, in consultation with organizations that represent individuals with traumatic brain injuries and other acquired brain injuries, shall appoint a deputy director to oversee the office.**

**Sec. 2. The office may review any program or policy established by the division for the impact of the program or the policy on the civil and human rights of individuals receiving brain injury services.**

**Sec. 3. (a) Not later than August 1, 2013, the deputy director appointed under section 1(b) of this chapter shall appoint an advisory committee consisting of at least seven (7) individuals recommended by an organization that represents individuals with traumatic brain injuries and other acquired brain injuries. The committee shall advise the office on matters affecting the civil and human rights of individuals receiving services under this article.**

**(b) A member of the committee who is not a state employee is entitled to both of the following:**

- (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).**
- (2) Reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.**

**(c) A member of the committee who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.**

**(d) The committee shall meet at least four (4) times during a state fiscal year.**

**Chapter 5. Brain Injury Services**

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1           **Sec. 1. As used in this article, "acquired brain injury" means an**  
 2 **injury to the brain that has occurred after birth and is not**  
 3 **hereditary, congenital, degenerative, or induced by birth trauma.**  
 4 **The term includes brain injury resulting from a stroke, near**  
 5 **drowning, hypoxic or anoxic injury, traumatic injury, tumor,**  
 6 **neurotoxins, electric shock, or lightning strike.**

7           **Sec. 2. As used in this article, "brain injury services" means**  
 8 **medical treatment, therapy, and other services provided to an**  
 9 **individual diagnosed with an acquired brain injury to restore or**  
 10 **maintain the individual's preinjury level of cognitive and physical**  
 11 **function. The term may include the following services:**

- 12           (1) **Acute and sub-acute care.**  
 13           (2) **Long term medical care.**  
 14           (3) **The following therapy:**  
 15                (A) **Cognitive.**  
 16                (B) **Behavioral.**  
 17                (C) **Physical.**  
 18                (D) **Neurological.**  
 19                (E) **Psychological.**  
 20           (4) **Assistance with functional services, including activities of**  
 21 **daily living.**  
 22           (5) **Life skills training.**  
 23           (6) **Prevocational and vocational services.**  
 24           (7) **Resource facilitation.**  
 25           (8) **Respite care.**

26           **Sec. 3. As used in this article, "traumatic brain injury" means**  
 27 **an acquired brain injury that results in an alteration of brain**  
 28 **function or other evidence of brain pathology that was caused by**  
 29 **an external force.**

30           **Sec. 4. An individual is eligible for brain injury services under**  
 31 **this article if the individual meets the following:**

- 32           (1) **Has been diagnosed by a physician licensed under**  
 33 **IC 25-22.5 as having a traumatic brain injury or other**  
 34 **acquired brain injury.**  
 35           (2) **Either:**  
 36                (A) **is a Medicaid recipient; or**  
 37                (B) **qualifies for services under the Medicaid traumatic or**  
 38 **acquired injury waiver applied for under IC 12-15-46-3.**

39           **Sec. 5. The division shall fund the provision of brain injury**  
 40 **services through the following:**

- 41           (1) **Federal funds.**  
 42           (2) **State appropriated funds.**

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1 (3) Funds provided by public and private entities.

2 (4) Funds provided by individuals using the services.

3 Sec. 6. Not later than January 1, 2014, the secretary and the  
4 director of the division shall provide to the governor and the  
5 general assembly the following:

6 (1) A written plan for implementing and funding:

7 (A) the provisions of this article;

8 (B) IC 12-15-5-1(24).

9 (C) IC 12-15-46-3.

10 (2) Identification of the services to be provided to eligible  
11 individuals under this article.

12 Chapter 6. Program and Policy Review Advisory Committee

13 Sec. 1. (a) The program and policy review advisory committee  
14 is established. The advisory committee consists of the following  
15 members:

16 (1) The secretary, who serves as chairperson of the advisory  
17 committee.

18 (2) The chairperson of the health finance commission  
19 established by IC 2-5-23-3.

20 (3) The vice chairperson of the select joint commission on  
21 Medicaid oversight established by IC 2-5-26-3.

22 (4) A member of the health finance commission that  
23 represents a minority party of the general assembly.

24 (5) A member of the select joint commission on Medicaid  
25 oversight that represents a minority part of the general  
26 assembly.

27 (6) Three (3) individuals who have brain injuries, appointed  
28 by the governor.

29 (7) Three (3) individuals who are caregivers or family  
30 members of an individual with brain injuries, appointed by  
31 the governor.

32 (8) The following members who shall serve as nonvoting  
33 advisors:

34 (A) The director of the division.

35 (B) The deputy director of the office of client rights and  
36 protections.

37 (C) The state budget director, or the budget director's  
38 designee.

39 (b) The advisory committee shall meet at least four (4) times  
40 during the state fiscal year.

41 (c) The appointments under this section shall be made by the  
42 governor not later than July 1, 2013.

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1           **Sec. 2. The members described in section 1(a)(6) and section**  
 2 **1(a)(7) of this chapter are entitled to both of the following:**

3           **(1) The minimum salary per diem provided by**  
 4 **IC 4-10-11-2.1(b).**

5           **(2) Reimbursement for travel expenses and other expenses**  
 6 **actually incurred in connection with the member's duties, as**  
 7 **provided in the state travel policies and procedures**  
 8 **established by the Indiana department of administration and**  
 9 **approved by the budget agency.**

10           **Sec. 3. The advisory committee shall advise the secretary**  
 11 **regarding the policies, programs, and funding needed to implement**  
 12 **the following:**

13           **(1) This article.**

14           **(2) IC 12-15-5-1(24).**

15           **(3) IC 12-15-46-3.**

16           SECTION 6. IC 12-10-10-6, AS AMENDED BY P.L.47-2009,  
 17 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 UPON PASSAGE]: Sec. 6. The community and home options to  
 19 institutional care for the elderly and disabled program is established.  
 20 The division shall administer the program and shall do the following:

21           (1) Adopt rules under IC 4-22-2 for the coordination of the  
 22 program.

23           (2) Administer state and federal money for the program.

24           (3) Develop and implement a process for the management and  
 25 operation of the program locally through the area agencies on  
 26 aging based upon criteria developed by the division.

27           (4) Approve the selection of community and home care services  
 28 providers based upon criteria developed by the division.

29           (5) Review and approve community and home care services plans  
 30 developed by services providers.

31           (6) Provide training and technical assistance for the staff  
 32 providers.

33           (7) Select or contract with agencies throughout Indiana to provide  
 34 community and home care services.

35           (8) Assist the office in applying for Medicaid waivers from the  
 36 United States Department of Health and Human Services to fund  
 37 community and home care services needed by eligible individuals  
 38 under this chapter.

39           (9) Have self-directed care options and services available for an  
 40 eligible individual who chooses self-directed care services.

41           **(10) Distribute funds appropriated for the program to the**  
 42 **area agencies on aging in a manner that:**

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1           **(A) insures the availability of the funds when needed for**  
 2           **services for clients; and**

3           **(B) allows local area agencies on aging to manage funds**  
 4           **consistent with the local area agencies on aging's caseload.**

5           SECTION 7. IC 12-10-10-13 IS ADDED TO THE INDIANA  
 6           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 7           [EFFECTIVE UPON PASSAGE]: **Sec. 13. Notwithstanding any**  
 8           **other state law, funds appropriated by the general assembly to**  
 9           **provide home and community based services for individuals**  
 10           **through the CHOICE program:**

11           **(1) may only be used for that purpose;**

12           **(2) may not be used as a match for Medicaid waiver services;**

13           **(3) do not revert to the general fund at the end of a state fiscal**  
 14           **year; and**

15           **(4) remain available to the CHOICE program until the funds**  
 16           **are expended for home and community based services**  
 17           **through the CHOICE program.**

18           SECTION 8. IC 12-10-11.5-2 IS AMENDED TO READ AS  
 19           FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2. (a) This chapter**  
 20           **is subject to funding available to the office of the secretary of family**  
 21           **and social services.**

22           **(b) The secretary and the director of the state budget agency are**  
 23           **responsible for ensuring that the cost of the services provided under**  
 24           **this chapter does not exceed the total amount of funding, including**  
 25           **state and federal funds, that is made available by the budget agency for**  
 26           **the program established under this chapter to provide long term care,**  
 27           **including home and community based services.**

28           **(c) Funds available for home and community based long term**  
 29           **care services include the following:**

30           **(1) Funds allocated by the general assembly to the CHOICE**  
 31           **program.**

32           **(2) State and federal funds allocated for Medicaid and**  
 33           **Medicaid waiver services.**

34           **(3) Federal funds from social services block grants and the**  
 35           **federal Older Americans Act (42 U.S.C. 3001 et seq.).**

36           **(4) State and federal funds used to provide home and**  
 37           **community based services.**

38           **(5) Funds saved by the state that would have otherwise been**  
 39           **allocated for nursing facility or institutional care when an**  
 40           **individual is diverted from nursing facility or institutional**  
 41           **care by enrolling the individual in home and community**  
 42           **based service under the CHOICE program, Medicaid, or a**

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**Medicaid waiver.**

**(6) Funds allocated for home and community based services from a public or private entity.**

**(d) The savings described in subsection (c)(5) shall be used for home and community based services for individuals through the CHOICE program, Medicaid, or a Medicaid waiver.**

SECTION 9. IC 12-10-11.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** The office of the secretary of family and social services shall establish a comprehensive program of home and community based long term care services to provide eligible individuals with care that is not more costly than services provided to similarly situated individuals who reside in institutions.

**(b) Notwithstanding any other law, the program described in this section:**

**(1) must be administered:**

**(A) statewide by the division; and**

**(B) locally by the area agencies on aging; and**

**(2) must include all of the programs and services:**

**(A) provided by the division and the area agencies on aging as of January 1, 2013; and**

**(B) required by this chapter.**

**(c) The division may establish an office within the division to implement this chapter.**

SECTION 10. IC 12-10-11.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** An individual who has resided in the state for at least ninety (90) days shall be eligible for the home and community based long term care services program if the individual:

**(1) participates in, or has been determined to be eligible for, the community and home options to institutional care for the elderly and disabled program established by IC 12-10-10-6; or**

**(2) meets the following requirements, which must meet the general eligibility standards for an individual receiving services under a home and community based Medicaid waiver:**

**(A) Has an income of not more than three hundred percent (300%) of the federal Supplemental Security Income level.**

**(B) Is unable to perform at least three (3) activities of daily living determined by an assessment conducted by an area agency on aging case manager or any other agency the state has contracted with to perform assessments.**

**(C) Is at risk of being placed in an institution or is currently**

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1 residing in an institution and has been determined to be  
2 eligible for services under IC 12-10-10 or under a home and  
3 community based Medicaid waiver.

4 **(b) An individual who applies and meets the requirements of**  
5 **subsection (a) shall receive home and community based services,**  
6 **including services provided to the individual in the individual's**  
7 **home, unless the individual signs a written affidavit stating that the**  
8 **individual requests to receive services in a nursing facility or an**  
9 **institution.**

10 SECTION 11. IC 12-10-11.5-5 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The state  
12 shall provide access to the following long term care services that are  
13 appropriate and needed for an individual who is eligible for these  
14 services under this chapter:

- 15 (1) Any home and community based service that is available  
16 through:
  - 17 (A) the community and home options to institutional care for  
18 the elderly and disabled program; or
  - 19 (B) any state Medicaid waiver.
- 20 (2) Personal care services.
- 21 (3) Self-directed care.
- 22 (4) Assisted living.
- 23 (5) Adult foster care.
- 24 (6) Adult day care services.
- 25 (7) The provision of durable medical equipment or devices.
- 26 (8) Housing modifications.
- 27 (9) Adaptive medical equipment and devices.
- 28 (10) Adaptive nonmedical equipment and devices.
- 29 (11) Any other service that is necessary to maintain an individual  
30 in a home and community based setting.

31 **(b) An individual receiving services under this chapter shall**  
32 **have a health care plan that:**

- 33 **(1) is approved by the individual; and**
- 34 **(2) provides sufficient services and hours of service to provide**  
35 **the individual with the necessary long term care services to**  
36 **allow the individual to remain independent and safe.**

37 SECTION 12. IC 12-10-11.5-6 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The office of  
39 the secretary of family and social services shall annually determine any  
40 state savings generated by home and community based services under  
41 this chapter by reducing the use of institutional care.

42 (b) The secretary shall annually report to the governor, the budget

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1 agency, the budget committee, the select joint commission on Medicaid  
 2 oversight, and the executive director of the legislative services agency  
 3 the savings determined under subsection (a). A report under this  
 4 subsection to the executive director of the legislative services agency  
 5 must be in an electronic format under IC 5-14-6.

6 (c) Savings determined under subsection (a) ~~may~~ **shall** be used to  
 7 fund ~~the state's share of additional home and community based~~  
 8 ~~Medicaid waiver slots:~~ **home and community based long term care**  
 9 **services in the following order:**

10 (1) **First, for eligible individuals who have been on a waiting**  
 11 **list for home and community based long term care services.**

12 (2) **Once the individuals in subdivision (1) have received**  
 13 **services, for any other eligible individual who has applied for**  
 14 **home and community based long term care services.**

15 (3) **For other purposes only after the individuals described in**  
 16 **subdivision (1) and (2) have received services.**

17 SECTION 13. IC 12-10-11.5-8 IS ADDED TO THE INDIANA  
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 19 [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) The office of the**  
 20 **secretary shall eliminate waiting lists for home and community**  
 21 **based long term care services. An eligible individual who has**  
 22 **applied for these services may not wait for these services for more**  
 23 **than twenty-nine (29) days. The office of the secretary shall enroll**  
 24 **individuals through one (1) of the following:**

25 (1) **The screening and enrollment process administered by the**  
 26 **area agencies on aging for CHOICE eligible individuals.**

27 (2) **The Medicaid waiver eligibility screen for an individual**  
 28 **determined to be eligible for services provided under the aged**  
 29 **and disabled Medicaid waiver or the traumatic brain injury**  
 30 **Medicaid waiver.**

31 (b) **Before July 1, 2014, the office of the secretary shall enroll an**  
 32 **eligible individual who was included on a waiting list described in**  
 33 **subsection (a) on July 1, 2013, into home and community based**  
 34 **long term care services.**

35 SECTION 14. IC 12-10-11.5-9 IS ADDED TO THE INDIANA  
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 37 [EFFECTIVE JULY 1, 2013]: **Sec. 9. (a) The office of the secretary**  
 38 **shall enroll an individual who has qualified for home and**  
 39 **community based long term care services under CHOICE or a**  
 40 **Medicaid waiver not later than twenty-nine (29) days after**  
 41 **determining the individual's eligibility.**

42 (b) **The area agencies on aging have the authority to determine**

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1 an individual's initial Medicaid eligibility for the aged and disabled  
2 Medicaid waiver and the traumatic brain injury Medicaid waiver  
3 by using eligibility criteria provided by the office to the area  
4 agencies on aging that set forth the eligibility requirements for  
5 those waivers.

6 (c) Before July 1, 2013, the office of the secretary shall insure  
7 that the directors of the division of family resources, the division  
8 on aging, and the office of Medicaid policy and planning have  
9 implemented the requirements of this section in a manner that is  
10 consistent with federal law.

11 SECTION 15. IC 12-10-11.5-10 IS ADDED TO THE INDIANA  
12 CODE AS A NEW SECTION TO READ AS FOLLOWS  
13 [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) This section does not**  
14 **apply to the following:**

- 15 (1) Medical emergencies.
- 16 (2) Medical care and recovery in a hospital.
- 17 (3) Acute care services.
- 18 (4) Medicaid reimbursable rehabilitation services.

19 (b) Before nursing facility care services may be substituted for  
20 home and community based long term care services, the following  
21 must occur:

- 22 (1) It is demonstrated that nursing facility or institutional  
23 care is better for the individual's medical and psychological  
24 well being.
- 25 (2) The individual seeking the services signs an affidavit  
26 stating that the individual prefers to receive nursing facility  
27 or institutional care instead of home and community based  
28 long term care services.

29 (c) If an individual is incapable of signing the affidavit required  
30 in subsection (b)(2) due to cognitive, physical, or medical  
31 impairment, the individual's guardian or health care  
32 representative under IC 16-36-1 may sign the affidavit on behalf of  
33 the individual.

34 SECTION 16. IC 12-10-11.5-11 IS ADDED TO THE INDIANA  
35 CODE AS A NEW SECTION TO READ AS FOLLOWS  
36 [EFFECTIVE UPON PASSAGE]: **Sec. 11. The division shall make**  
37 **caregiver support services available to any individual who receives**  
38 **publicly funded home and community based services, including**  
39 **services available through the federal Patient Protection and**  
40 **Affordable Care Act.**

41 SECTION 17. IC 12-10-11.5-12 IS ADDED TO THE INDIANA  
42 CODE AS A NEW SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Not later than July 1,  
 2 2014, the division shall do the following:  
 3 (1) Implement and set standards for a program to identify,  
 4 recruit, train, certify, and enroll individuals as independent  
 5 providers of home and community based long term care  
 6 services for individuals.  
 7 (2) Establish a network of independent providers of home and  
 8 community based long term care services for individuals.  
 9 (3) Create and maintain a statewide registry of independent  
 10 home and community based long term care services providers  
 11 who have been trained and certified by the division. The  
 12 division shall provide and update a copy of the registry to the  
 13 area agencies on aging.  
 14 (4) Identify liability insurance and health insurance options  
 15 for independent home and community based services  
 16 providers.  
 17 (5) Establish fiscal intermediary services within the division  
 18 for individuals who are consumers of self-directed home and  
 19 community based long term care services through the  
 20 CHOICE program and the Medicaid aged and disabled  
 21 waiver.  
 22 (6) Create in service training and professional enrichment  
 23 programs with the area agencies on aging for independent  
 24 home and community based long term care services providers  
 25 to maintain the skills and quality of services provided.  
 26 (7) Provide individuals receiving home and community based  
 27 long term care services the option to receive these services  
 28 from an independent provider.  
 29 (8) Maintain a self-directed care telephone hotline and  
 30 support services to address emergencies and assist individuals  
 31 who are consumers of self-directed home and community  
 32 based long term care services.  
 33 (9) Review federal programs that support the establishment  
 34 and development of networks for home and community based  
 35 long term care services, including programs included in the  
 36 federal Patient Protection and Affordable Care Act to  
 37 determine whether to participate in the programs.  
 38 (b) The division may contract with a state educational  
 39 institution or an area agency on aging to implement the program  
 40 described in subsection (a)(1).  
 41 (c) The division shall consult with the following in developing  
 42 the program and standards described in subsection (a)(1):

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- 1           **(1) The area agencies on aging.**
  - 2           **(2) The Indiana Association for Home and Hospice Care.**
  - 3           **(3) The Indiana Home Care Task Force.**
  - 4           **(4) Organizations that:**
    - 5               **(A) represent senior citizens; and**
    - 6               **(B) have a statewide membership.**
  - 7           **(5) Organizations that:**
    - 8               **(A) represent persons with disabilities; and**
    - 9               **(B) have a statewide membership.**
- 10           SECTION 18. IC 12-10-17.1-9.5 IS ADDED TO THE INDIANA  
11           CODE AS A NEW SECTION TO READ AS FOLLOWS  
12           [EFFECTIVE UPON PASSAGE]: **Sec. 9.5. (a) The division shall**  
13           **make available self-directed in-home health care to any recipient**  
14           **who:**
- 15               **(1) is in need of self-directed in-home health care; and**
  - 16               **(2) can demonstrate that the recipient can self-direct the**  
17               **individual's care.**
- 18           **(b) The division shall implement self-directed in-home health**  
19           **care:**
- 20               **(1) statewide; and**
  - 21               **(2) in a manner that provides services to an individual that**  
22               **are specified in a written health care plan that has been**  
23               **developed and approved by the:**
    - 24                   **(A) local area agency on aging; and**
    - 25                   **(B) individual using self-directed in-home health care**  
26                   **services or the individual's health care representative**  
27                   **acting under IC 16-36-1.**
- 28           **(c) The:**
- 29               **(1) individual using the self-directed in-home health care**  
30               **services or the individual's health care representative; and**
  - 31               **(2) local area agency on aging;**
- 32           **shall attest to the approval of the individual's health care plan in**  
33           **writing.**
- 34           **(d) The division shall use the local area agencies on aging to**  
35           **locally implement self-directed in-home health care.**
- 36           SECTION 19. IC 12-15-5-1 IS AMENDED TO READ AS  
37           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Except as  
38           provided in IC 12-15-2-12, IC 12-15-6, and IC 12-15-21, the following  
39           services and supplies are provided under Medicaid:
- 40               (1) Inpatient hospital services.
  - 41               (2) Nursing facility services.
  - 42               (3) Physician's services, including services provided under

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- 1 IC 25-10-1 and IC 25-22.5-1.
- 2 (4) Outpatient hospital or clinic services.
- 3 (5) Home health care services.
- 4 (6) Private duty nursing services.
- 5 (7) Physical therapy and related services.
- 6 (8) Dental services.
- 7 (9) Prescribed laboratory and x-ray services.
- 8 (10) Prescribed drugs and services.
- 9 (11) Eyeglasses and prosthetic devices.
- 10 (12) Optometric services.
- 11 (13) Diagnostic, screening, preventive, and rehabilitative services.
- 12 (14) Podiatric medicine services.
- 13 (15) Hospice services.
- 14 (16) Services or supplies recognized under Indiana law and
- 15 specified under rules adopted by the office.
- 16 (17) Family planning services except the performance of
- 17 abortions.
- 18 (18) Nonmedical nursing care given in accordance with the tenets
- 19 and practices of a recognized church or religious denomination to
- 20 an individual qualified for Medicaid who depends upon healing
- 21 by prayer and spiritual means alone in accordance with the tenets
- 22 and practices of the individual's church or religious denomination.
- 23 (19) Services provided to individuals described in IC 12-15-2-8
- 24 and IC 12-15-2-9.
- 25 (20) Services provided under IC 12-15-34 and IC 12-15-32.
- 26 (21) Case management services provided to individuals described
- 27 in IC 12-15-2-11 and IC 12-15-2-13.
- 28 (22) Any other type of remedial care recognized under Indiana
- 29 law and specified by the United States Secretary of Health and
- 30 Human Services.
- 31 (23) Examinations required under IC 16-41-17-2(a)(10).
- 32 **(24) Traumatic brain injury services and other acquired brain**
- 33 **injury services.**
- 34 SECTION 20. IC 12-15-46-3 IS ADDED TO THE INDIANA
- 35 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 36 [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) The office, in**
- 37 **collaboration with the division of brain injury and cognitive**
- 38 **rehabilitative services, shall apply to the United States Department**
- 39 **of Health and Human Services for a Medicaid waiver to provide**
- 40 **services for individuals who have:**
- 41 **(1) traumatic brain injuries or other acquired brain injuries;**
- 42 **and**

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- 1           **(2) an income of not more than three hundred percent (300%)**
- 2           **of the federal Supplemental Security Income level.**
- 3           **(b) An individual's participation in the following programs may**
- 4           **not disqualify the individual from participating in the Medicaid**
- 5           **waiver described in subsection (a):**
- 6           **(1) Social security benefits, including Supplemental Security**
- 7           **Income and Social Security Disability Insurance.**
- 8           **(2) Unemployment compensation.**
- 9           **(3) Worker's compensation.**
- 10           **(4) Medicaid.**
- 11           **(5) Community and home options to institutional care for the**
- 12           **elderly and disabled program (CHOICE).**
- 13           **(6) Assistance from the United States Department of Veterans**
- 14           **Affairs.**
- 15           **(7) Any other public assistance program administered by**
- 16           **Indiana or the federal government.**
- 17           **SECTION 21. An emergency is declared for this act.**

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