

Notice of Public Hearing
LSA Document #07-540

Notice of Public Hearing

Under [IC 4-22-2-24](#), notice is hereby given that on December 20, 2007, at 9:00 a.m., at the Indiana Government Center South, 402 West Washington Street, Conference Center Room 14, Indianapolis, Indiana, the Office of the Secretary of Family and Social Services will hold a public hearing on the Office of Medicaid Policy and Planning's proposed amendments to [405 IAC 1-1-6](#) that will add a corrective action plan as a potential sanction for noncompliance with any provision of [IC 12-15](#) or any rule established under one of those sections, to define a corrective action plan, to identify sanctions for not submitting corrective action plan, and to allow the imposing of sanctions for noncompliance with Section 1902(a)(68) of the Social Security Act regarding "Employee Education About False Claims Recovery".

To comply with the provisions of [IC 4-22-2-24\(d\)](#), the agency further states the following: Section 1902(a)(68)(A) of the Social Security Act requires large health care organizations that receive \$5,000,000 or more in annual Medicaid reimbursement to inform employees about certain fraud and abuse laws and about the whistleblower provisions and protections in those laws. These organizations are required to adopt written policies for all employees, contractors, and agents that identify the federal False Claims Act, including whistleblower protections, and the role of such laws in preventing and deterring fraud, waste, and abuse. Entity compliance with federal requirements and the state Medicaid plan are necessary in order for affected entities to receive reimbursement for health care services and items it provides. Each state participating in the Medicaid program is required to determine the manner by which it will ensure an entity's compliance with Section 1902(a)(68) of the Act regarding "Employee Education About False Claims Recovery". This rule allows for the sanctioning of entities that do not comply and defines the sanctions that the Office of Medicaid Policy and Planning will issue for noncompliance.

The rule requires a noncompliant entity to complete a corrective action plan within 60 days, detailing how it will come into compliance with state or federal requirements. If after the 60 days the entity has not submitted a corrective action plan, the state may withhold payment to the entity or disenroll the entity. The rule gives entities the opportunity to create a corrective action plan if they are not in compliance, rather than automatically withholding payment after discovery of deficiency. The agency believes that the rule's risk of sanction will encourage quick and direct compliance with federal law. The rule also allows the use of a corrective action plan when a provider is found not compliant with other state or federal Medicaid requirements. The state believes that it will be beneficial to have this type of sanction to encourage providers to come into compliance with Medicaid requirements, rather than exclusively use financial sanctions. Therefore, the cost of this new sanction on providers is probably less burdensome than current existing sanctions.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

E. Mitchell Roob Jr.
Secretary
Office of the Secretary of Family and Social Services

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