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**TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES**

**Notice of Intent to Adopt a Rule**

LSA Document #08-325

Under [IC 4-22-2-23](#), the Office of the Secretary of Family and Social Services intends to adopt a rule concerning the following:

**OVERVIEW:** Amends [405 IAC 2](#) to conform to the Deficit Reduction Act of 2005, Pub. L. No. 109-171, and update eligibility standards with regard to assets, income, and resources. Amends [405 IAC 2-1-2](#) to require applicants for long-term care services to disclose the interest of the applicant or the applicant's spouse in an annuity and make state a remainder beneficiary of such annuity under certain circumstances. Amends [405 IAC 2-3-1.1](#) to define home equity, change look back date and penalty period requirements, define personal services contracts, penalize certain transactions involving promissory notes, loans, and mortgages, and life estates, and define and describe treatment of fractional transfers. Amends [405 IAC 2-3-1.1](#) and [405 IAC 2-3-22](#) to recognize undue hardship standards listed in [405 IAC 2-3-24](#). Amends [405 IAC 2-3-1.2](#) to define annuities purchased on or after February 8, 2006, the treatment of annuities in the eligibility determination, and the conditions under which purchase of such annuities will be considered transfers for less than adequate consideration. Amends [405 IAC 2-3-2](#) to describe life care contracts requirements and eligibility requirements for individuals possessing life care contracts. Amends [405 IAC 2-3-3](#) to require all income of an institutionalized spouse be allocated to community spouse before the allocation of any resources. Amends [405 IAC 2-3-15](#) to disallow long-term care benefits to individuals with home equity greater than \$500,000. Amends [405 IAC 2-3-22](#) to disallow certain claims of debt for personal services from a special needs trust. Adds [405 IAC 2-3-24](#) to set forth standards for notice of an undue hardship exception, the application for an undue hardship exception, and the appeals rights for denial of an undue hardship exception. Amends [405 IAC 2-8-2](#) to clarify that the undue hardship waiver under Rule 8 provisions do not apply to Medicaid applicants affected by transfer of property and trust availability rules. Comments or questions should be submitted in writing and directed to the Small Business Regulatory Coordinator for this rule. Statutory authority: [IC 12-8-1-9](#); [IC 12-8-6-5](#); [IC 12-13-5-3](#); [IC 12-13-7-3](#); [IC 12-15-1-10](#); [IC 12-15-1-15](#); [IC 12-15-9-6](#); [IC 12-15-21-2](#).

For purposes of [IC 4-22-2-28.1](#), the Small Business Regulatory Coordinator for this rule is:

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