
TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

**Administrative Rules Oversight Committee Notice
One Year Requirement ([IC 4-22-2-25](#))
LSA Document #08-192**

To: Senator R. Michael Young, Chairperson
Administrative Rules Oversight Committee
c/o Legislative Services Agency
Attn: Sarah Burkman
200 West Washington Street, Suite 301
Indianapolis, IN 46204-2789

From: Scott Linneweber, Staff Attorney

Re: LSA [*Document*] #08-192, Amendments to Community Mental Health Rehabilitation Services

Date: November 17, 2008

CC: Steve Barnes, Indiana Register, Legislative Services Agency
Jessaca Turner Stults, General Counsel, FSSA
Dr. Jeffrey Wells, Director, Office of Medicaid Policy and Planning

On behalf of the Family and Social Services Administration, Office of Medicaid Policy and Planning, I am submitting this memo to the Administrative Rules Oversight Committee in compliance with [IC 4-22-2-25](#), because the agency has determined that the promulgation of the captioned rule may not be completed within one year after publication of the Notice of Intent to Adopt a Rule.

The agency published its Notice of Intent to Adopt a Rule for the captioned document on March 19, 2008 (DIN: [20080319-IR-405080192NIA](#)). The notice of intent was published as a response to federal rules that were going to change current practice related to funding of regulated entities through intergovernmental transfers. Congress then imposed a moratorium on the federal rules. During the time of the moratorium, the state reconsidered its approach to prior authorization and has been retooling the policy behind the intended rule. Now that the agency has clarified its policy behind this document, it is ready to resume the promulgation process.

The Proposed Rule will need to be approved by the Office of Management and Budget (see Ind. Code § 4-22-2-28). Any rule adopted by the agency must be approved by the Family and Social Services Committee (see Ind. Code § 12-8-3-1 et seq.), a committee that meets only once per month. The committee currently has a few vacancies, and it is possible a monthly meeting could occur without a quorum. Therefore, no action would take place on an adopted rule. This would mean delayed approval until the next monthly meeting of the committee and presence of a quorum. Following approval by the FSSA committee, the rule must be submitted to the Attorney General's office. Pursuant to Ind. Code § 4-22-2-32, the Attorney General has forty-five days to complete his review of a rule. Whether a quorum is present at a monthly meeting of the FSSA Committee and the Attorney General's time frame for rule review are outside of the agency's control. For these reasons, it is unlikely that the rule will be approved by the Governor within one year of the date of publication of the notice of intent. The agency expects that the rule can be approved by the Governor by November 17, 2009.

This notice setting forth the expected date of approval of LSA [*Document*] #08-192 as November 17, 2009, is being submitted in a timely manner. November 24, 2008, is the two hundred fiftieth day after publication of the Notice of Intent to Adopt a Rule.

Posted: 11/26/2008 by Legislative Services Agency
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