
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 #08-325**

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 #08-325, Amendments to Medicaid Eligibility Standards

Date: December 22, 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 LSA Document #08-325 on April 30, 2008 (DIN: [20080430-IR-405080325NIA](#)). The Proposed Rule (and its accompanying Economic Impact Statement and Notice of Public Hearing) was published on August 27, 2008 (DIN: [20080827-IR-405080325PRA](#)). The public hearing was held on September 19, 2008, and the agency received numerous public comments both during and after the public hearing. Under [IC 4-22-2-27](#), the agency must respond to public comments before the rule can be adopted by the agency. Because of the volume of public comments received by the agency, and the agency's desire to give thoughtful response to the public comments, the agency may not be able to have the Final Rule to the Governor for signature under the time restraints required under [IC 4-22-2-25\(a\)](#).

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 LSA Document #08-325 can be approved by the Governor by December 22, 2009.

This notice setting forth the expected date of approval of LSA Document #08-325 as December 22, 2009, is being submitted in a timely manner. January 5, 2009, is the two hundred fiftieth day after publication of the Notice of Intent to Adopt a Rule.

Posted: 12/31/2008 by Legislative Services Agency
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