
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 #08-664**

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: Joy Heim, Staff Attorney

Re: LSA Document #08-664, Prior Authorization of Nursing Facility Admissions

Date: April 8, 2009

CC: Steve Barnes, Indiana Register, Legislative Services Agency
Elizabeth Karlson, Deputy General Counsel, FSSA
Patricia Casanova, Medicaid Director

On behalf of the Family and Social Services Administration, Office of Medicaid Policy and Planning (FSSA), 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 #08-664 on August 20, 2008 (DIN: [20080820-IR-405080664NIA](#)). The notice of intent was published as a response to state requirements changing the process by which individuals are admitted to long-term care nursing facilities. FSSA has been working through the issues in drafting these amendments, and several staff members have changed during this process. FSSA has further 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 [IC 4-22-2-28](#)). Any rule adopted by the agency must be approved by the Family and Social Services Committee (see [IC 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 [IC 4-22-2-32](#), the Attorney General has 45 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 April 1, 2010.

This notice setting forth the expected date of approval of LSA [Document] #08-664 as April 1, 2010, is being submitted in a timely manner. April 27, 2009, is the two hundred fiftieth day after publication of the Notice of Intent to Adopt a Rule.

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