

Proposed Rule
LSA Document #09-262

DIGEST

Adds [405 IAC 2-3.2](#) to set forth the period of Medicaid presumptive eligibility, the process for application of benefits due to presumptive eligibility, services available to persons determined covered by presumptive eligibility, limitations on appeal rights related to presumptive eligibility, and other general requirements for defining and administering a presumptive eligibility program. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[405 IAC 2-3.2](#)

SECTION 1. [405 IAC 2-3.2](#) IS ADDED TO READ AS FOLLOWS:

Rule 3.2. Presumptive Eligibility Services for Pregnant Women

[405 IAC 2-3.2-1](#) Definitions

Authority: [IC 12-8-1-9](#); [IC 12-8-6-5](#); [IC 12-15-1-10](#)

Affected: [IC 12-15-4](#); [IC 12-15-5](#)

Sec. 1. The following definitions apply throughout this rule:

(1) "Ambulatory prenatal care services" means outpatient services related to pregnancy, including prenatal services and services related to other conditions that may complicate the pregnancy.

(2) "Division" means:

(A) the division of family resources of the Indiana family and social services administration;

(B) a county office of the division; or

(C) an office that is operated by a contractor of the division to accept Medicaid applications.

(3) "Office" means the office of Medicaid policy and planning in the Indiana family and social services administration or its designee.

(4) "Qualified provider" means a provider who:

(A) is enrolled in the Indiana Medicaid program;

(B) maintains a valid agreement, as prescribed by the office, to make determinations regarding presumptive eligibility; and

(C) meets all other requirements set forth in 42 U.S.C. 1396r-1(b)(2).

(5) "Verifiable pregnancy" means a pregnancy that has been verified by a medical provider, such as a positive pregnancy test performed by a licensed practitioner or a staff person employed by a qualified provider. Results of self-administered, over-the-counter testing devices, such as home pregnancy tests, cannot be used to verify a pregnancy for purposes of this rule.

(Office of the Secretary of Family and Social Services; [405 IAC 2-3.2-1](#))

[405 IAC 2-3.2-2](#) Qualified providers provided with application tools and information

Authority: [IC 12-8-1-9](#); [IC 12-8-6-5](#); [IC 12-15-1-10](#)

Affected: [IC 12-15-4](#); [IC 12-15-5](#)

Sec. 2. The office shall provide each qualified provider with the following:

(1) Access to application forms for presumptive eligibility and Medicaid.

(2) Information on how to assist a woman in applying for presumptive eligibility and Medicaid.

(Office of the Secretary of Family and Social Services; [405 IAC 2-3.2-2](#))

[405 IAC 2-3.2-3](#) Application; qualified providers to establish presumptive eligibility; presumptive eligibility

criteria

Authority: [IC 12-8-1-9](#); [IC 12-8-6-5](#); [IC 12-15-1-10](#)

Affected: [IC 12-15-2-13](#)

Sec. 3. (a) An application for presumptive eligibility must be made to a qualified provider.

(b) A qualified provider shall establish presumptive eligibility if the:

- (1) woman is pregnant, as evidenced by a verifiable pregnancy;**
- (2) qualified provider determines, on the basis of preliminary information provided by the woman, that the:**
 - (A) gross family income of the woman does not exceed the amount set forth in [IC 12-15-2-13](#);**
 - (B) woman is an Indiana resident;**
 - (C) woman is a United States citizen or a qualified alien, as defined in 8 U.S.C. 1641, who has resided in the United States for at least five (5) years; and**
 - (D) woman is not an inmate of a public institution;**
- (3) woman is not currently enrolled in Medicaid; and**
- (4) woman has not previously been granted presumptive eligibility for her current pregnancy.**

(c) If a qualified provider establishes presumptive eligibility for a woman, the qualified provider must:

- (1) notify the office of the determination within five (5) business days after the date the determination is made; and**
- (2) inform the woman at the time the determination is made that she is required to apply for Medicaid not later than the last day of the month following the month during which the presumptive eligibility determination is made.**

(d) If a qualified provider determines that presumptive eligibility cannot be established, the qualified provider shall inform the woman in writing:

- (1) of the reason for the determination; and**
- (2) that she may file an application for Medicaid if she wishes to have a formal determination made.**

(Office of the Secretary of Family and Social Services; [405 IAC 2-3.2-3](#))

[405 IAC 2-3.2-4](#) Period of presumptive eligibility

Authority: [IC 12-8-1-9](#); [IC 12-8-6-5](#); [IC 12-15-1-10](#)

Affected: [IC 12-15-4](#); [IC 12-15-5](#)

Sec. 4. (a) The period of presumptive eligibility begins on the date the qualified provider establishes presumptive eligibility.

(b) The period of presumptive eligibility ends on the earlier of the:

- (1) date the division makes a Medicaid eligibility determination with respect to the woman;**
- (2) date the woman's pregnancy ends or terminates; or**
- (3) last day of the month following the month during which the qualified provider established presumptive eligibility, if the woman has not filed an application for Medicaid by that day.**

(Office of the Secretary of Family and Social Services; [405 IAC 2-3.2-4](#))

[405 IAC 2-3.2-5](#) Covered and noncovered services

Authority: [IC 12-8-1-9](#); [IC 12-8-6-5](#); [IC 12-15-1-10](#)

Affected: [IC 12-15-4](#); [IC 12-15-5](#)

Sec. 5. (a) Ambulatory prenatal care services are covered by presumptive eligibility.

(b) The following services are not covered by presumptive eligibility:

- (1) Inpatient hospital services.**
- (2) Labor and delivery services.**
- (3) Postpartum care services.**
- (4) Contraception.**
- (5) Sterilization.**
- (6) Ectopic pregnancy services.**
- (7) Abortion.**
- (8) Abnormal products of conception.**
- (9) Hospice.**
- (10) Long-term care.**

(Office of the Secretary of Family and Social Services; [405 IAC 2-3.2-5](#))

[405 IAC 2-3.2-6](#) Appeal rights

Authority: [IC 12-8-1-9](#); [IC 12-8-6-5](#); [IC 12-15-1-10](#)

Affected: [IC 12-15-4](#); [IC 12-15-5](#)

Sec. 6. (a) A qualified provider's decision regarding presumptive eligibility is not a Medicaid eligibility determination. The notice and appeals rights of Medicaid applicants and recipients set forth in [405 IAC 1.1](#) do not apply. A woman cannot appeal a qualified provider's decision regarding presumptive eligibility.

(b) The notice and appeal rights of Medicaid applicants and recipients will apply when the division makes a Medicaid eligibility determination with respect to the woman.

(Office of the Secretary of Family and Social Services; [405 IAC 2-3.2-6](#))

[Notice of Public Hearing](#)

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