
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 #09-709

To: Honorable Scott Pelath, Chairperson
Administrative Rules Oversight Committee
c/o Ms. Sarah Burkman
Indiana Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, IN 46204-2789

From: Joy A. Heim, Staff Attorney

Re: LSA #09-709, School-Based Transportation and Nursing Services Amendments

Date: May 12, 2010

cc: Steve Barnes, Indiana Register, Legislative Services Agency
Jessaca Turner Stults, General Counsel, FSSA
Patricia Casanova, Director, Office of Medicaid Policy and Planning
Yvonne Burke, Coverage and Benefits, Office of Medicaid Policy and Planning

On behalf of the Family and Social Services Administration, Office of Medicaid Policy and Planning (OMPP), 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 September 16, 2009 (DIN: [20090916-IR-405090709NIA](#)). This rule adds applicable school-based services definitions, adds certain school-based services to the list of exceptions to prior authorization requirements, and amends the rule to allow for school corporations to provide transportation services to students with IEPs, as well as to allow reimbursement for those students to receive nursing services provided by a public school corporation. The agency has several steps it must take before this rule can be fully promulgated, such as submitting the rule to the State Budget Agency for approval, publishing the proposed rule, conducting a public hearing, and publishing the final rule. Also, because of the complexity and its interaction with other existing rules, additional research had to be completed and discussions within the agency and with the Department of Education took place.

In addition to the circumstances mentioned above, any rule adopted by the agency must be approved by the Family and Social Services Committee (see [IC 12-8-3](#)), a committee that meets only once per month. It is possible a monthly meeting could occur without a quorum and therefore without any action being taken 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 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 may not be possible for the rule to 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 May 11, 2011.

This notice setting forth the expected date of approval of LSA *[Document]* #09-709 as May 11, 2011, is being submitted in a timely manner. May 24, 2010, is the two hundred fiftieth day after publication of the Notice of Intent to Adopt a Rule.

Posted: 06/02/2010 by Legislative Services Agency
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