

**Proposed Rule**  
LSA Document #14-339

DIGEST

Adds [405 IAC 10](#) to set forth provisions affecting applicants, members, and providers concerning eligibility, enrollment, benefits, and policy for the Indiana Check-Up Plan, commonly referred to as the Healthy Indiana Plan. Repeals [405 IAC 9](#). Statutory authority: [IC 12-15-44.2-19](#). Effective 30 days after filing with the Publisher.

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

[405 IAC 9](#); [405 IAC 10](#)

SECTION 1. [405 IAC 10](#) IS ADDED TO READ AS FOLLOWS:

**ARTICLE 10. HEALTHY INDIANA PLAN 2.0**

**Rule 1. General Provisions**

**[405 IAC 10-1-1](#) Intent and purpose**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 1. (a) Under [IC 12-15-44.2](#), the office hereby adopts and promulgates this article to:

(1) ensure the:

- (A) efficient;
- (B) economical;
- (C) medically reasonable; and
- (D) quality;

operations of the plan;

(2) support:

- (A) healthy behaviors; and
- (B) personal responsibility; and

(3) safeguard against:

- (A) overutilization;
- (B) fraud;
- (C) abuse; and
- (D) the utilization of services and supplies that are not:
  - (i) covered under the plan; or
  - (ii) medically reasonable and necessary.

(b) This article implements the approved federal waiver and expenditure authorities and special terms and conditions established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-1-1](#))*

**[405 IAC 10-1-2](#) Approval of waiver; federal financial participation; hospital assessment fee**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 2. The plan shall be conditioned upon the following:

- (1) The continued approval of the Healthy Indiana Plan 2.0 Section 1115 waiver application by the Centers for Medicare and Medicaid Services.
- (2) The increased federal medical assistance percentage available to individuals defined in 42 CFR

435.119, as provided in 42 U.S.C. 1396d(y).

(3) The hospital assessment fee funds as set forth in [IC 16-21-10](#), to support the plan beginning in calendar year 2017.

(Office of the Secretary of Family and Social Services; [405 IAC 10-1-2](#))

#### [405 IAC 10-1-3](#) References to the United States Code

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 3. Any reference to a provision of the United States Code (U.S.C.) shall mean that which was effective on February 20, 2015.

(Office of the Secretary of Family and Social Services; [405 IAC 10-1-3](#))

#### [405 IAC 10-1-4](#) References to the Code of Federal Regulations

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 4. Any reference to a provision of the Code of Federal Regulations (CFR) shall mean the October 1, 2014, edition. The provisions are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Family and Social Services Administration, Office of General Counsel, Indiana Government Center South, Room W451, 402 West Washington Street, Indianapolis, Indiana 46204.

(Office of the Secretary of Family and Social Services; [405 IAC 10-1-4](#))

## Rule 2. Definitions

#### [405 IAC 10-2-1](#) Definitions

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

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

- (1) "Alternative benefit plan" means an alternative benefit plan approved by the Centers for Medicare and Medicaid Services.
- (2) "American Indian/Alaskan Native" means any individual defined in 25 U.S.C. 1603(13) or 25 U.S.C. 1603(28) or whom the division has determined eligible as an American Indian/Alaskan Native under 42 CFR 136.12.
- (3) "Applicant" means an individual for whom coverage under the plan is requested.
- (4) "Benefit period" means the continuous period of plan eligibility. Subject to any exceptions listed in this article, the period of plan eligibility is twelve (12) months.
- (5) "Conditionally eligible" or "conditionally eligible individual" means a plan applicant who:
  - (A) has been determined eligible for the plan by the division; and
  - (B) is not yet able to receive coverage under HIP Basic, HIP Plus, HIP State Plan Basic, or HIP State Plan Plus.
- (6) "Copayment" means a fixed amount charged to a member by the provider for certain services at the time the services are provided.
- (7) "Covered service" means a service provided to a member for which payment is available under the plan, subject to the limitations set forth in this article.
- (8) "Deductible" means the amount of covered medical services for which the member is responsible. The amount of the deductible for the plan is two thousand five hundred dollars (\$2,500) for the benefit period.
- (9) "Designated enrollment center" means a center authorized by the division to:
  - (A) accept applications; and
  - (B) complete initial intake processing on applications.
- (10) "Division" means the division of family resources or its designee.

- (11) "Early and periodic screening, diagnostic, and treatment services" means those services defined in 42 U.S.C. 1396d(r).
- (12) "Emergency medical condition" means a medical condition as set forth in 42 U.S.C. 1395dd.
- (13) "Emergency services" means covered services, including inpatient and outpatient services, that are needed to evaluate or stabilize an emergency medical condition.
- (14) "Enrollment broker" means an entity that contracts with the state to:
- (A) inform applicants and members about; and
  - (B) enroll applicants and members with;
- insurers participating in the plan.
- (15) "Family planning services" means services provided to individuals of childbearing age to temporarily or permanently prevent or delay pregnancy including, but not limited to, birth control pills and nonoral contraceptives. The term also includes sexually transmitted disease testing. Elective abortions and abortifacients are excluded from the definition of family planning services.
- (16) "Family planning services program" means the Medicaid category set forth at [IC 12-15-46-1](#).
- (17) "Fast track prepayment" means an optional ten dollar (\$10) POWER account contribution, which, upon the division's eligibility determination, is either:
- (A) refunded to a pending applicant determined ineligible for the plan; or
  - (B) applied toward the member's required POWER account contribution in the case of a pending applicant determined eligible for the plan.
- (18) "Federal income poverty level" or "FPL" means the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).
- (19) "Federal marketplace" means an American health benefit exchange or online marketplace for health insurance operating in Indiana under 42 U.S.C. 18041.
- (20) "Healthy Indiana Plan Basic" or "HIP Basic" means the alternative benefit plan, subject to copayments as set forth in [405 IAC 10-10-3\(b\)](#), that is provided to individuals with household income at or below one hundred percent (100%) of the FPL when such individuals do not make the required contributions to their POWER account as set forth in [405 IAC 10-10-3\(a\)](#).
- (21) "Healthy Indiana Plan Plus" or "HIP Plus" means the enhanced alternative benefit plan available to individuals with household income up to and including one hundred thirty-three percent (133%) of the FPL who make the required POWER account contributions as set forth in [405 IAC 10-10-3\(a\)](#).
- (22) "Healthy Indiana Plan State Plan" or "HIP State Plan" means the benefits that are, at a minimum, no less than the benefits offered in the Medicaid state plan or HIP Plus, and that are available to the following members who are enrolled in the plan:
- (A) Medically frail.
  - (B) Section 1931 parents and caretaker relatives.
  - (C) Members eligible for transitional medical assistance.
  - (D) Low income dependents.
- (23) "HIP State Plan Basic" means the benefits, subject to copayments as set forth in [405 IAC 10-10-3\(b\)](#), available to HIP State Plan members with household income at or below one hundred percent (100%) of the FPL when such individuals do not make the required contributions to their POWER account as set forth in [405 IAC 10-10-3\(a\)](#).
- (24) "HIP State Plan Plus" means the benefits available to HIP State Plan members with household income up to and including one hundred thirty-three percent (133%) of the FPL who make the required POWER account contributions as set forth in [405 IAC 10-10-3\(a\)](#).
- (25) "Household" means the composition and family size of a household as set forth in 42 CFR 435.603(f).
- (26) "Household income" means the sum of the MAGI of every individual included in the individual's household as set forth in 42 CFR 435.603.
- (27) "Insurer" means a health insurer or health maintenance organization that has contracted with the office to provide a high deductible health plan and POWER account to individuals enrolled in the plan.
- (28) "Low income dependent" means a dependent either nineteen (19) or twenty (20) years of age who maintains primary residence in the home of a parent or caretaker relative and meets the Section 1931 parent and caretaker relative income criteria.
- (29) "Medically frail" means an individual who, in accordance with the process in [405 IAC 10-6-1](#), is determined to have any one (1) of the following:
- (A) A disabling mental disorder.
  - (B) A chronic substance abuse disorder.
  - (C) A serious and complex medical condition.
  - (D) A physical, intellectual, or developmental disability that significantly impairs the individual's ability to perform one (1) or more activities of daily living.

**(30) "Medically necessary service" means a covered service that, in a manner consistent with accepted standards of medical practice, is reasonably expected to:**

**(A) prevent or diagnose the onset of:**

- (i) an illness;**
- (ii) an injury;**
- (iii) a condition;**
- (iv) a primary disability; or**
- (v) a secondary disability;**

**(B) cure, correct, reduce, or ameliorate the:**

- (i) physical;**
- (ii) mental;**
- (iii) cognitive; or**
- (iv) developmental;**

**effects of an illness, an injury, or a disability; or**

**(C) reduce or ameliorate the pain or suffering caused by:**

- (i) an illness;**
- (ii) an injury;**
- (iii) a condition; or**
- (iv) a disability.**

**(31) "Member" means an individual:**

**(A) whom the division has determined to be eligible for the plan;**

**(B) who is able to receive coverage under HIP Basic, HIP Plus, HIP State Plan Basic, or HIP State Plan Plus; and**

**(C) who is not conditionally eligible.**

**(32) "Modified adjusted gross income" or "MAGI" means MAGI-based income as calculated in accordance with 42 CFR 435.603(e).**

**(33) "Nonemergency transportation services" means transportation services that are unrelated to an emergency medical condition as defined in subdivision (12).**

**(34) "Office" means the Indiana family and social services administration, and its offices, divisions, or designee.**

**(35) "Pending applicant" means an applicant whose application has been received by the division and who has not yet been determined eligible for the plan, but who has been determined by the division to meet the following initial criteria:**

**(A) Be at least nineteen (19) years of age and less than sixty-five (65) years of age.**

**(B) Not be a pregnant woman.**

**(C) Not be enrolled in the federal Medicare program.**

**(D) Not be a former foster youth.**

**(E) Not be determined disabled.**

**(F) Not be an American Indian/Alaskan Native.**

**(G) Not be subject to a six (6) month plan lockout under [405 IAC 10-10-12](#).**

**(36) "Plan" means the Healthy Indiana Plan or HIP as established by a U.S. Department of Health and Human Services approved Section 1115 demonstration waiver and [IC 12-15-44.2](#) that provides health care benefit packages to eligible individuals through a high deductible health plan paired with a personal health spending account called a POWER account.**

**(37) "Plan reimbursement rate" means the amount of reimbursement insurers pay to providers participating in the plan. This amount shall be:**

**(A) established by the office; and**

**(B) based on a Medicaid reimbursement formula that is:**

**(i) comparable to the federal Medicare reimbursement rate for the service provided; or**

**(ii) one hundred thirty percent (130%) of the Medicaid reimbursement rate for a service that does not have a Medicare reimbursement rate.**

**(38) "POWER account" or "personal wellness and responsibility account" means a personal health spending account used to pay a member's deductible for plan covered benefits and services.**

**(39) "Pregnant woman" means a woman who is pregnant and who otherwise meets the HIP eligibility criteria set forth in [405 IAC 10-4-1](#).**

**(40) "Pregnant women Medicaid category" refers to the Medicaid benefits category under the state plan for which a pregnant woman is eligible.**

**(41) "Presumptive eligibility" means the process established pursuant to 42 CFR 435, Subpart L by which individuals can be determined presumptively eligible for the plan and receive temporary health coverage until official eligibility for the plan is determined by the division.**

**(42) "Preventive care services" means care that is provided to a member to:**

- (A) prevent disease;
- (B) diagnose disease; or
- (C) promote good health.

(43) "Prior authorization" or "PA" means the procedure for the insurer's prior review and authorization, modification, or denial of coverage for medical services and supplies within plan allowable limitations, based upon medical necessity and other criteria as established by one (1) of the following:

- (A) The office.
- (B) Insurers, subject to approval by the office.

(44) "Provider" means:

- (A) an individual;
- (B) a state or local agency; or
- (C) a business entity;

that meets the requirements of [405 IAC 5-4-1](#). A provider enrolled as a Medicaid provider under [405 IAC 5-4](#) is eligible to participate in the plan.

(45) "Qualified presumptive eligibility provider" means a:

- (A) hospital;
- (B) federally qualified health center;
- (C) rural health center;
- (D) community mental health center; or
- (E) health department;

authorized by the office to determine presumptive eligibility subject to the requirements of 42 CFR 435.1103 and 42 CFR 435.1110.

(46) "Section 1931 parent and caretaker relative" means an individual defined in 42 CFR 435.4 who meets the following income criteria:

Family Size	Monthly Income Amount
1	\$152
2	\$247
3	\$310
4	\$373
5	\$435
6	\$498
7	\$561
Each additional	\$63

(47) "State" means the executive branch of the state of Indiana.

(48) "Transitional medical assistance" means the extension of eligibility for medical assistance for Section 1931 parents and caretaker relatives in accordance with 42 U.S.C. 1396r-6.

(Office of the Secretary of Family and Social Services; [405 IAC 10-2-1](#))

### Rule 3. Applicants and Members

#### [405 IAC 10-3-1](#) Application process

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 1. (a) An applicant seeking coverage under the plan shall submit an application on the form approved or accepted by the office.

(b) An application may be submitted through:

- (1) the division;
- (2) a designated enrollment center;
- (3) an online method determined by the division; or
- (4) the federal marketplace.

(c) In order to be screened for medically frail eligibility under [405 IAC 10-6-1](#), an applicant shall answer the health screening questions on the application form regarding the applicant's health status. If the

applicant does not complete the health screening questions on the application, the division shall review the application for eligibility in the plan but shall not review it initially for medically frail eligibility.

(d) The following individuals may sign an application:

- (1) The applicant.
- (2) The applicant's next of kin.
- (3) The applicant's authorized representative.

(e) An enrollment broker may assist plan applicants in choosing an insurer.

(f) The office shall assign an applicant to an insurer if such applicant does not choose an insurer on the application.

(g) A designated enrollment center that completes initial intake processing for an applicant shall forward the completed application and all required documentation materials to the division.

(h) The date of application shall be determined as follows:

- (1) In the case of an application filed with the division, the date a signed application is received by the division.
- (2) In the case of an application filed at a designated enrollment center, the date a signed application is received by the designated enrollment center.
- (3) In the case of an application filed via the federal marketplace, the date provided to the state by the federal marketplace.

(i) If an applicant fails or refuses to provide information or verification of information required to determine the applicant's eligibility for the plan, the applicant shall be ineligible and the division shall deny the application. Prior to denying an application under this section, the division shall provide the applicant written notice of the specific information or verification needed to determine eligibility. The division shall deny an application if the information or verification is not received by the division within thirteen (13) calendar days of the date of the notice. If a deadline falls on a weekend or holiday, the deadline for receiving the information shall be the next business day.

(j) The division shall send an eligibility determination notice to the applicant within forty-five (45) days of the date of the application.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-3-1](#))*

#### **[405 IAC 10-3-2](#) Standard enrollment**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 2. (a) This section does not apply to a pending applicant.

(b) An applicant once determined eligible shall be considered conditionally eligible for HIP Plus unless such individual is eligible for HIP State Plan benefits.

(c) A conditionally eligible individual, in order to receive HIP Plus or HIP State Plan Plus benefits, shall make the initial contribution to a POWER account in the amount set forth in [405 IAC 10-10-3\(a\)](#) within sixty (60) days of the division's eligibility determination.

(d) A conditionally eligible individual with household income above one hundred percent (100%) of the FPL shall:

- (1) begin HIP Plus or HIP State Plan Plus benefits, as applicable, the first day of the month in which the individual makes an initial POWER account contribution; or
- (2) in the event such individual does not make an initial POWER account contribution within the sixty



(60) day payment period described in subsection (c), no longer be conditionally eligible.

(e) A conditionally eligible individual with household income at or below one hundred percent (100%) of the FPL shall:

- (1) begin HIP Plus or HIP State Plan Plus benefits, as applicable, the first day of the month in which the individual makes an initial POWER account contribution; or
- (2) in the event such individual does not make an initial POWER account contribution within the sixty (60) day payment period described in subsection (c), begin HIP Basic or HIP State Plan Basic benefits, as applicable, the first day of the month in which the division determines nonpayment.

(f) Subsections (b) through (e) do not apply to an American Indian/Alaskan Native. An eligible American Indian/Alaskan Native shall begin receiving HIP Plus or HIP State Plan Plus benefits, as applicable, the first day of the month of the eligible individual's date of application as determined in accordance with section 1(h) of this rule.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-3-2](#))*

### [405 IAC 10-3-3](#) Fast track enrollment

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 3. (a) This section applies to a pending applicant.

(b) Upon receipt of an application but prior to determining eligibility, the office shall assign the pending applicant to either:

- (1) the insurer selected on the application; or
- (2) an insurer assigned to an individual in accordance with section 1(f) of this rule.

(c) The insurer shall send the pending applicant a ten dollar (\$10) fast track prepayment invoice that is due within sixty (60) calendar days of the date of the invoice, unless the pending applicant provides payment information on the application.

(d) A pending applicant shall remain in pending status until the division makes the final eligibility determination. If the individual is determined eligible but has not yet made the individual's fast track prepayment, the individual shall be considered conditionally eligible until the expiration of the sixty (60) day fast track prepayment period described in subsection (c).

(e) To begin receiving HIP Plus or HIP State Plan Plus benefits, a conditionally eligible individual shall make, at his or her option, either:

- (1) the fast track prepayment described in subsection (c); or
- (2) the initial monthly contribution to the individual's POWER account in the amount set forth in [405 IAC 10-10-3\(a\)](#);

within the sixty (60) day fast track prepayment period described in subsection (c).

(f) An individual with household income above one hundred percent (100%) of the FPL shall:

- (1) begin receiving HIP Plus or HIP State Plan Plus benefits, as applicable, the first day of the month in which the individual makes either a fast track prepayment or initial POWER account contribution, as applicable, in accordance with subsection (e); or
- (2) in the event such individual makes neither the initial fast track prepayment nor the initial POWER account contribution in accordance with subsection (e), no longer be a pending applicant or conditionally eligible, as applicable.

(g) An individual with household income at or below one hundred percent (100%) of the FPL shall:

- (1) begin HIP Plus or HIP State Plan Plus benefits, as applicable, the first day of the month in which the individual makes either a fast track prepayment or initial POWER account contribution, as applicable, in accordance with subsection (e); or

(2) in the event such individual makes neither the fast track prepayment nor the initial POWER account contribution in accordance with subsection (e), begin HIP Basic or HIP State Plan Basic benefits, as applicable, the first day of the month in which the sixty (60) day prepayment period described in subsection (c) expires.

(h) Subsections (b) through (g) do not apply to an American Indian/Alaskan Native. An eligible American Indian/Alaskan Native shall begin HIP Plus or HIP State Plan Plus benefits, as applicable, effective the first day of the month of the eligible individual's date of application, as determined in accordance with section 1(h) of this rule.

(Office of the Secretary of Family and Social Services; [405 IAC 10-3-3](#))

## Rule 4. Eligibility

### [405 IAC 10-4-1](#) Eligibility requirements

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#); [IC 27-8-14.1-1](#)

Sec. 1. (a) The following individual shall be eligible for participation in the plan if the individual:

- (1) Is at least nineteen (19) years of age and less than sixty-five (65) years of age, except as set forth in section 4(d) of this rule.
- (2) Is an Indiana resident.
- (3) Is not enrolled in or eligible for enrollment in the federal Medicare program.
- (4) Is not eligible for another Medicaid assistance category, except for the following:
  - (A) Section 1931 parents and caretaker relatives.
  - (B) Low income dependents.
  - (C) Transitional medical assistance.
  - (D) A member who becomes eligible for the pregnant women Medicaid category in accordance with section 6 of this rule.
- (5) Has household income at or below one hundred thirty-three percent (133%) of the FPL for the applicable family size.

(b) As a condition of eligibility, an individual living with a dependent child less than nineteen (19) years of age shall ensure that the child is enrolled in Medicaid, the Children's Health Insurance Program under [IC 12-17.6](#), or otherwise receiving minimum essential coverage as defined in 26 U.S.C. 5000A(f). This condition does not apply to the following:

- (1) Section 1931 parents and caretaker relatives.
- (2) Transitional medical assistance.
- (3) Low income dependents.
- (4) Pregnant women.

(c) There shall not be an asset or resource test for the plan.

(d) The office shall refer all members or conditionally eligible individuals who are unemployed or work less than twenty (20) hours per week to a workforce training program. Individuals who are full-time students enrolled in a postsecondary education institution or technical school shall be exempt from this referral.

(Office of the Secretary of Family and Social Services; [405 IAC 10-4-1](#))

### [405 IAC 10-4-2](#) HIP Plus; HIP Basic

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 2. (a) Except as otherwise provided in this article, a member in HIP Plus or HIP State Plan Plus shall make regular monthly POWER account contributions in the amount set forth in [405 IAC 10-10-3\(a\)](#). A



member who fails to make the member's POWER account contributions shall be subject to the actions set forth in [405 IAC 10-10-12](#), unless the individual is excepted under [405 IAC 10-10-13](#).

(b) A member who is either:

(1) enrolled in HIP Basic or HIP State Plan Basic in accordance with [405 IAC 10-3-2](#) or [405 IAC 10-3-3](#);  
or

(2) transferred to HIP Basic or HIP State Plan Basic in accordance with [405 IAC 10-10-12](#);

shall not be required to make POWER account contributions but may be required to pay copayments at the time of service delivery in accordance with [405 IAC 10-10-3\(b\)](#).

(c) A member shall have the opportunity to transfer from HIP Basic to HIP Plus or HIP State Plan Basic to HIP State Plan Plus under the following circumstances:

(1) Upon annual renewal as set forth in section 9(g) of this rule.

(2) For a member with a balance remaining in the member's POWER account at the end of the benefit period, upon rollover in accordance with [405 IAC 10-10-5](#).

(Office of the Secretary of Family and Social Services; [405 IAC 10-4-2](#))

#### [405 IAC 10-4-3](#) Medically frail

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 3. (a) Subject to the eligibility requirements under subsection (b), a member who is determined to have one (1) or more of the conditions outlined under [405 IAC 10-2-1\(29\)](#) shall be eligible to receive HIP State Plan services.

(b) An applicant who self identifies as medically frail under [405 IAC 10-6-1\(b\)](#) shall be conditionally eligible for HIP State Plan Plus benefits and shall be enrolled in either HIP State Plan Plus or HIP State Plan Basic in accordance with [405 IAC 10-3-2](#) or [405 IAC 10-3-3](#), as applicable.

(c) A medically frail member who is enrolled in HIP State Plan Plus shall continue making the member's monthly POWER account contributions while the member's medically frail status is verified and, if confirmed as medically frail, during the benefit period. A member who does not continue making monthly POWER account contributions shall be subject to the nonpayment penalties set forth in [405 IAC 10-10-12](#), unless the individual is excepted under [405 IAC 10-10-13](#).

(d) A medically frail member in HIP State Plan Basic may choose to enroll in HIP State Plan Plus at annual renewal or prior to the rollover determination as provided in section 2(c) of this rule by making POWER account contributions in accordance with [405 IAC 10-10-3\(a\)](#).

(e) A member's medically frail status shall be redetermined in accordance with [405 IAC 10-6-1](#). If the member is determined not to be medically frail, but still eligible under the plan, such member shall no longer receive HIP State Plan benefits and shall be transferred to:

(1) HIP Plus if the member is currently enrolled in HIP State Plan Plus; or

(2) HIP Basic if the member is currently enrolled in HIP State Plan Basic.

(Office of the Secretary of Family and Social Services; [405 IAC 10-4-3](#))

#### [405 IAC 10-4-4](#) Section 1931 parents and caretaker relatives; low income dependent

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 4. (a) An eligible applicant or member who meets the definition for Section 1931 parent and caretaker relative or low income dependent shall be enrolled in either HIP State Plan Plus or HIP State Plan Basic in accordance with [405 IAC 10-3-2](#) or [405 IAC 10-3-3](#), as applicable.

(b) If a member under this section is determined to no longer meet the Section 1931 parent and caretaker relative definition based upon reasons other than those listed in subsection (c), but is still eligible under the plan, the member shall be transferred to:

- (1) HIP Plus if the member is currently enrolled in HIP State Plan Plus; or
- (2) HIP Basic if the member is currently enrolled in HIP State Plan Basic.

(c) A member who no longer meets the Section 1931 parent and caretaker relative definition because of increased income from employment that results in household income greater than allowed under Section 1931 of the Social Security Act shall be eligible to receive transitional medical assistance in accordance with section 5 of this rule.

(d) A member who meets the Section 1931 parent and caretaker relative definition and is at least sixty-five (65) years of age while enrolled in the plan shall remain eligible for the plan for so long as the member continues to meet the Section 1931 parent and caretaker relative definition under [405 IAC 10-2-1\(46\)](#).

(e) A member who meets the Section 1931 parent and caretaker relative or low income dependent definition and who:

- (1) has not received Medicaid coverage or coverage under the plan within two (2) years of the date in which the member began receiving HIP State Plan benefits under this section; or
- (2) is newly enrolled in the plan and meets one (1) of the exceptions described in [405 IAC 10-10-13](#); shall be eligible for additional coverage as set forth in [405 IAC 10-9-5\(b\)](#).

*(Office of the Secretary of Family and Social Services; [405 IAC 10-4-4](#))*

#### [405 IAC 10-4-5](#) Transitional medical assistance category

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 5. (a) The transitional medical assistance category under the plan is available only to those members listed in section 4(c) of this rule.

(b) The transitional medical assistance category under the plan provides guaranteed HIP State Plan coverage for six (6) months. The coverage may last up to twelve (12) months as provided in this section.

(c) A member in the transitional medical assistance category and enrolled in HIP State Plan Plus shall make the POWER account contributions in accordance with [405 IAC 10-10-3\(a\)](#). A member who fails to make the member's POWER account contributions, regardless of household income, shall be transferred to HIP State Plan Basic and shall be responsible for paying the copayments at the time of service delivery in accordance with [405 IAC 10-10-3\(b\)](#).

(d) A member who is eligible for the transitional medical assistance category shall complete and return a report on a form sent by the division at month three (3), six (6), and nine (9) of the potential twelve (12) month period in order to maintain eligibility for the transitional medical assistance category under the plan.

(e) A member who fails to submit the required report as set forth in subsection (d) to the division at month three (3) or six (6) shall no longer be eligible for the transitional medical assistance category and shall be terminated from the plan at month six (6). A member who fails to submit the required report as set forth in subsection (d) to the division at month nine (9) shall no longer be eligible for the transitional medical assistance category and shall be terminated from the plan at the end of month nine (9). A member who is terminated from the plan based upon the member's failure to submit a required report to the division may reapply to the plan at any time.

(f) A member shall be ineligible to receive coverage under this section at the end of the transitional medical assistance coverage period.

**[405 IAC 10-4-6](#) Pregnant women**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 6. (a) A member who becomes pregnant during the member's benefit period shall remain enrolled in the plan unless the member:

- (1) elects to transfer to the pregnant women Medicaid category; or
- (2) is pregnant at annual renewal, at which time the member shall be transferred to the pregnant women Medicaid category.

(b) A pregnant member who remains in the plan as described in subsection (a) shall be exempt from cost sharing, including, but not limited to, the following:

- (1) HIP Plus monthly contributions set forth in [405 IAC 10-10-3\(a\)](#).
- (2) HIP Basic copayments set forth in [405 IAC 10-10-3\(b\)](#).
- (3) Copayments for nonemergent use of a hospital emergency department set forth in [405 IAC 10-7-9](#).
- (4) Deductible amounts funded through the member's POWER account.

(c) A pregnant member who remains in the plan as described in subsection (a) shall receive enhanced benefits as set forth in the state alternative benefit plans for HIP Plus and HIP Basic members throughout the member's pregnancy and for a postpartum period equal to sixty (60) days commencing on the date such individual's pregnancy ends.

(d) An applicant who:

- (1) is pregnant at the time of application; and
- (2) otherwise meets the HIP eligibility criteria set forth in section 1 of this rule;

shall not be eligible for the plan, but shall be placed in and receive coverage under the pregnant women Medicaid category.

(e) A pregnant woman who either is:

- (1) transferred to the pregnant women Medicaid category under subsection (a); or
- (2) placed in the pregnant women Medicaid category under subsection (d);

shall receive at least sixty (60) days of Medicaid for pregnant women postpartum coverage commencing on the date such individual's pregnancy ends and ending on the first day of the month following the expiration of the sixty (60) day postpartum period.

(f) This subsection applies to a woman described in subsection (e). Upon the office's receipt of notice of the pregnancy end date, the woman shall be considered conditionally eligible for HIP Plus. The woman shall be eligible to receive coverage in accordance with the process described in [405 IAC 10-3-2](#); provided, however, that the woman's plan benefits shall not begin earlier than the date of the expiration of the postpartum period described in subsection (e).

(g) Beginning the first day of the month following the end of the postpartum period described in subsection (c), a woman who remains enrolled in the plan shall:

- (1) remain in the same benefit plan but shall no longer be eligible for the enhanced pregnancy benefits described in subsection (c);
- (2) be subject to any applicable copayment or POWER account contribution requirements under [405 IAC 10-10-3](#); and
- (3) be subject to the nonpayment penalties described in [405 IAC 10-10-12](#).

(Office of the Secretary of Family and Social Services; [405 IAC 10-4-6](#))

**[405 IAC 10-4-7](#) American Indian/Alaskan Native**

Authority: [IC 12-15-44.2-19](#)

**Sec. 7. (a) An American Indian/Alaskan Native who meets the eligibility requirements for the plan shall not be subject to any cost sharing requirements under this article.**

**(b) An American Indian/Alaskan Native applicant who applies for benefits and who has been determined eligible for the plan shall be enrolled in HIP Plus or HIP State Plan Plus benefits in accordance with [405 IAC 10-3-2\(f\)](#). Such an individual may either:**

- (1) elect to enroll or remain enrolled with an insurer; or**
- (2) elect to opt-out of the plan to receive fee-for-service coverage by submitting a form provided by the office at any time following the date of application.**

**(c) For an American Indian/Alaskan Native member enrolled with an insurer, if such member submits the form provided by the office to elect to opt-out of the plan pursuant to subsection (b)(2), the member's fee-for-service coverage shall begin the first day of the month following the month in which the office received the request to opt-out.**

**(d) An American Indian/Alaskan Native's eligibility for the plan shall not impact the American Indian/Alaskan Native's ability to receive services at a qualified Indian Health Service facility.**

**(e) An American Indian/Alaskan Native who chooses to opt-out of the plan and receive fee-for-service benefits under this section may reenroll in the plan and begin receiving HIP Plus benefits at the member's annual renewal.**

*(Office of the Secretary of Family and Social Services; [405 IAC 10-4-7](#))*

#### **[405 IAC 10-4-8](#) Household; household income; as applied**

**Authority: [IC 12-15-44.2-19](#)**

**Affected: [IC 12-15-44.2](#)**

**Sec. 8. The division shall determine the applicant's or member's:**

- (1) eligibility under the plan; and**
- (2) POWER account contribution requirements;**

**by considering the applicant's or member's household and household income as defined in [405 IAC 10-2-1\(25\)](#) and [405 IAC 10-2-1\(26\)](#).**

*(Office of the Secretary of Family and Social Services; [405 IAC 10-4-8](#))*

#### **[405 IAC 10-4-9](#) Eligibility period; renewal**

**Authority: [IC 12-15-44.2-19](#)**

**Affected: [IC 12-15-44.2](#)**

**Sec. 9. (a) A member shall be eligible for a twelve (12) month period from the date such individual becomes a member unless the member:**

- (1) is terminated from the plan in accordance with [405 IAC 10-10-12](#); or**
- (2) becomes ineligible under the rules established under section 10 of this rule.**

**(b) A member shall be subject to an annual renewal process at the end of the benefit period to determine continued eligibility for participation in the plan. A member may be asked to submit documentation necessary for the division to determine eligibility.**

**(c) If a member does not provide the requested documentation under subsection (b) before the end of the member's twelve (12) month benefit period, the member shall be disenrolled from the plan. However, within ninety (90) days of the end of the expired benefit period, such individual may submit the requested information to the division without having to reapply for the plan. Such individual shall not be eligible to receive services during this ninety (90) day period.**

(d) An individual who loses coverage under subsection (c) shall not be permitted to reapply for the plan for a period of at least six (6) months from the date of disenrollment unless the individual is:

- (1) medically frail;
- (2) a Section 1931 parent and caretaker relative;
- (3) eligible for transitional medical assistance;
- (4) a low income dependent; or
- (5) eligible for an exception under [405 IAC 10-10-13](#).

The process set forth in [405 IAC 10-10-6\(c\)](#) shall apply to a member disenrolled under this subsection.

(e) At the time of a positive eligibility renewal, a member who is enrolled in:

- (1) HIP Plus shall remain in HIP Plus unless circumstances have changed that require the member to be transferred to HIP State Plan Plus;
- (2) HIP Basic shall remain in HIP Basic unless:
  - (A) the member's household income has increased above one hundred percent (100%) of the FPL and the member is only eligible for HIP Plus;
  - (B) the member chooses to transfer to HIP Plus in accordance with subsection (g); or
  - (C) circumstances have changed such that the member is eligible for HIP State Plan Basic;
- (3) HIP State Plan Plus shall remain in HIP State Plan Plus unless circumstances have changed that require the member to be transferred to HIP Plus; or
- (4) HIP State Plan Basic shall remain in HIP State Plan Basic unless:
  - (A) the member's household income has increased above one hundred percent (100%) of the FPL and the member is only eligible for HIP State Plan Plus;
  - (B) the member chooses to transfer to HIP State Plan Plus in accordance with subsection (g); or
  - (C) circumstances have changed such that the member is required to be transferred to HIP Plus or HIP Basic.

(f) A member who must transfer to HIP Plus or HIP State Plan Plus, as applicable, because the member's household income has increased above one hundred percent (100%) of the FPL shall make the required initial contribution to the member's POWER account within sixty (60) days of the renewal effective date. If the member fails to make the initial POWER account contribution within sixty (60) days of the renewal effective date, the member shall be subject to the nonpayment penalties set forth in [405 IAC 10-10-12](#), unless the individual is excepted under [405 IAC 10-10-13](#).

(g) A member who is in HIP Basic or HIP State Plan Basic and has household income at or below one hundred percent (100%) of the FPL shall have the opportunity at the time of the member's annual renewal to transfer to HIP Plus or HIP State Plan Plus, as applicable, if the member makes the required initial contribution to the member's POWER account within sixty (60) days of the renewal effective date. If the member fails to make the initial POWER account contribution within sixty (60) days of the renewal date, the member shall remain in HIP Basic or HIP State Plan Basic, as applicable.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-4-9](#))*

#### [405 IAC 10-4-10](#) Loss of eligibility

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 10. (a) During the twelve (12) month coverage period, an individual shall become ineligible to participate in the plan under the following circumstances:

- (1) The member is no longer an Indiana resident.
- (2) The member is enrolled or is otherwise eligible for enrollment in the federal Medicare program.
- (3) The member becomes eligible for another Medicaid assistance category, except for:
  - (A) Section 1931 parents and caretaker relatives;
  - (B) low income dependents;
  - (C) transitional medical assistance; or
  - (D) pregnant women Medicaid category.
- (4) The member has household income above one hundred percent (100%) of the FPL and is terminated under [405 IAC 10-10-12](#) for failure to make the required POWER account contributions,

unless the member is excepted under [405 IAC 10-10-13](#).

(5) The member or the member's duly authorized representative requests in writing that coverage be terminated.

(6) The member falsifies information on the application.

(7) The member is at least sixty-five (65) years of age unless the member is:

(A) a Section 1931 parent and caretaker relative; or

(B) eligible for transitional medical assistance.

(8) Except for a member eligible for transitional medical assistance, the member's household income exceeds one hundred thirty-three percent (133%) of the FPL.

(b) Coverage shall be terminated for a member who loses eligibility under this section.

(Office of the Secretary of Family and Social Services; [405 IAC 10-4-10](#))

#### [405 IAC 10-4-11](#) Presumptive eligibility

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 11. (a) An individual may apply for presumptive eligibility under the plan. A qualified presumptive eligibility provider shall determine whether an individual is eligible for a presumptive eligibility period.

(b) An individual who is determined presumptively eligible for the plan shall be enrolled with an insurer and be provided benefits equivalent to HIP Basic, including applicable copayments as set forth in [405 IAC 10-10-3\(b\)](#).

(c) A presumptively eligible individual who does not file an Indiana application for health coverage shall receive the presumptive eligibility benefits described in subsection (b) until the last day of the month following the month in which the determination of presumptive eligibility was made.

(d) A presumptively eligible individual whose application for health coverage has been filed and approved by the division shall receive the presumptive eligibility benefits described in subsection (b), until one (1) of the following occurs, as applicable:

(1) For a presumptively eligible individual who has paid an initial fast track prepayment or a POWER account contribution within sixty (60) days of the date of the invoice, in accordance with [405 IAC 10-3-2](#) or [405 IAC 10-3-3](#), the presumptive eligibility period shall end effective the first day of the month following the month in which the payment was made or the eligibility determination was made, whichever is later, and such individual shall begin HIP Plus or HIP State Plan Plus benefits, as applicable, effective the first day of the month following the month in which the payment was made or the eligibility determination was made, whichever is later, with no gap in coverage.

(2) For a presumptively eligible individual with household income greater than one hundred percent (100%) of the FPL, who is not otherwise eligible to receive HIP Basic benefits, and who has not paid an initial fast track prepayment or a POWER account contribution within sixty (60) days of the date of the invoice, in accordance with [405 IAC 10-3-2](#) or [405 IAC 10-3-3](#), the presumptive eligibility period shall end effective the date in which the office determines nonpayment.

(3) For a presumptively eligible individual with household income below one hundred percent (100%) of the FPL who has not paid an initial fast track prepayment or a POWER account contribution within sixty (60) days of the date of the invoice, in accordance with [405 IAC 10-3-2](#) or [405 IAC 10-3-3](#), the presumptive eligibility period shall end effective the first day of the month following the month in which the sixty (60) day payment period expired, and such individual shall begin HIP Basic or HIP State Plan Basic benefits, as applicable, effective the first day of the month following the month in which the sixty (60) day payment period expired, with no gap in coverage.

(e) A presumptively eligible individual whose Indiana application for health coverage has been filed, but not approved by the division, shall receive the presumptive eligibility benefits described in subsection (b), until the day on which a decision is made on that application.

(f) An individual whose presumptive eligibility period ends in accordance with subsections (c), (d)(2),



and (e) shall not be enrolled in the plan and may reapply.

(g) An individual shall only be approved for one (1) period of presumptive eligibility within a twelve (12) month period beginning on the date that a qualified presumptive eligibility provider makes an affirmative presumptive eligibility determination.

(Office of the Secretary of Family and Social Services; [405 IAC 10-4-11](#))

## Rule 5. Member Appeals

### [405 IAC 10-5-1](#) Appeals of determinations by the office or division

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 1. (a) For purposes of this rule, the term action means any of the following:

- (1) A termination of benefits.
- (2) A suspension of benefits.
- (3) A change in benefits.
- (4) A denial of covered services.
- (5) A reduction of covered services.

(b) In the event that the office or the division takes an action that the applicant, pending applicant, conditionally eligible individual, or member believes was undertaken erroneously, such person or entity may request an administrative hearing under [405 IAC 1.1](#).

(c) Appeals under this rule shall be governed by the procedures and time limits set out in [405 IAC 1.1](#).

(Office of the Secretary of Family and Social Services; [405 IAC 10-5-1](#))

### [405 IAC 10-5-2](#) Member appeals; insurers

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 2. (a) A pending applicant, conditionally eligible individual, or plan member dissatisfied with the action of an insurer must first exhaust the insurer's internal appeals procedure prior to requesting a hearing with the state.

(b) After exhausting the insurer's internal appeals procedures, a pending applicant, conditionally eligible individual, or member may request an administrative hearing with the state no later than thirty-three (33) days from the date of the insurer's resolution of appeal.

(c) The state's hearing process shall be governed by the procedures and time limits set forth in [405 IAC 1.1](#).

(Office of the Secretary of Family and Social Services; [405 IAC 10-5-2](#))

### [405 IAC 10-5-3](#) Maintaining services

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 3. (a) This subsection applies to an aggrieved member requesting an administrative appeal under section 1 or 2 of this rule as follows:

- (1) If an aggrieved member requests an administrative hearing as provided in the notice of adverse action, prior to the effective date of the adverse action, plan coverage shall continue without change

until an administrative law judge issues a decision after the hearing under [405 IAC 1.1-1-6](#). If POWER account contributions were required for that member to receive services, the member shall continue to make contributions to the member's POWER account during the appeal in order to continue coverage.

(2) If the administrative law judge sustains the action, the member shall be responsible for repaying the cost of any services furnished by reason of this section, minus any POWER account contributions made for coverage during the pendency of the appeal.

(3) If the action under appeal is overturned, the state or the insurer shall make coverage available effective to the date the overturned action was taken. However, unless the member is not required to make POWER account payments to maintain coverage, the individual shall make any POWER account payments that became due during the appeal within sixty (60) days of the insurer's date of invoice in order to continue participating in the plan.

(4) A member shall not receive continued benefits pending the outcome of an administrative hearing if:  
(A) the action is the result of the member's nonpayment of POWER account contributions; or  
(B) the member requests in writing that plan benefits not be maintained pending the administrative appeal.

(b) This subsection applies to an applicant requesting an administrative appeal under section 1 or 2 of this rule. If an applicant was determined ineligible but receives a favorable decision on appeal, coverage begins as follows:

(1) For an applicant who made either a fast track prepayment as provided under [405 IAC 10-3-3\(c\)](#) or initial POWER account contribution, the first day of the month in which the individual made either the fast track prepayment or the initial POWER account contribution.

(2) For an applicant who made neither a fast track prepayment nor an initial POWER account contribution prior to the date of the appealable action, such individual shall be given a period of time to make either a fast track prepayment or an initial POWER account contribution. This period of time shall be equal to the amount of time remaining in the applicant's payment period from the date of the office's erroneous action. Such period begins on the date of the insurer's new invoice issued after the favorable decision on appeal. If the individual makes either a fast track prepayment or POWER account contribution within this period, the individual shall receive a coverage start date intended to put such individual in the position the applicant would have been in but for the office's erroneous determination.

(c) An aggrieved applicant requesting an administrative appeal under section 1 or 2 of this rule who receives a favorable determination and is enrolled in either HIP Plus or HIP State Plan Plus in accordance with subsection (b) shall make the required POWER account contributions that accrued during the appeal within sixty (60) days of the date of the invoice in order to continue to be eligible to receive HIP Plus or HIP State Plan Plus coverage. An individual who does not make the required contributions within sixty (60) days of the date of invoice shall:

- (1) be transferred to HIP Basic or HIP State Plan Basic if the individual is at or below one hundred percent (100%) of the FPL; or
- (2) become ineligible for participation in the plan if such individual is above one hundred percent (100%) of the FPL.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-5-3](#))*

## Rule 6. Medically Frail

### [405 IAC 10-6-1](#) Medically frail screening

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#); [IC 27-8-10.1](#)

Sec. 1. (a) A member shall be reviewed for medically frail status at any of the following times:

(1) During the verification period if such member's responses on the application questionnaire indicate the potential existence of a medically frail condition.

(2) At any time during the benefit period if documentation demonstrates that the member may have a medically frail condition.

(3) At any time if documentation demonstrates that the member may no longer have a medically frail

condition.

(4) At any time upon member request.

(5) For a medically frail member, at least annually by the insurer for continued medically frail eligibility.

(b) The division shall forward an applicant's responses to the health screening questions obtained in accordance with [405 IAC 10-3-1](#)(c) to an insurer for verification of medically frail status if the division determines:

(1) the applicant is eligible under the plan; and

(2) the applicant's responses indicate the possible existence of a medically frail condition.

(c) During calendar year 2015, beginning upon the date an individual identified as potentially medically frail in accordance with subsection (b) becomes a member, the insurer shall have a period of sixty (60) days to verify the member's medically frail status. For purposes of this section, this period is referred to as the verification period. Beginning in calendar year 2016, and for each subsequent year of the plan, the verification period shall be thirty (30) days.

(d) A member identified as potentially medically frail in accordance with subsection (b) shall receive HIP State Plan benefits during the verification period and shall be enrolled in either HIP State Plan Plus or HIP State Plan Basic in accordance with [405 IAC 10-4-3](#).

(e) In order to verify a member's medically frail condition, the insurer shall consider one (1) or more of the following using a process approved by the office:

(1) The member's responses to the application questionnaire.

(2) The member's initial health screen.

(3) The member's health assessment.

(4) The member's medical records.

(5) The member's present or historical medical claims data.

(6) Any other information relevant to the member's health condition.

(f) If the insurer determines that a member is not medically frail or the insurer is unable to verify the member's medically frail status during the verification period, the member shall be transferred to either:

(1) HIP Plus if the member was enrolled in HIP State Plan Plus during the verification period; or

(2) HIP Basic if the member was enrolled in HIP State Plan Basic during the verification period.

(g) An individual wishing to appeal an insurer's determination under this section shall first appeal to the insurer making the determination in accordance with [405 IAC 10-5-2](#). If, on appeal to the insurer, the insurer finds that the member is not medically frail, the member may appeal the finding to the state in accordance with [405 IAC 10-5-1](#).

(h) The office may review the placement of a member who has been determined to be medically frail to determine whether the member meets the medically frail definition under [405 IAC 10-2-1](#)(29) by considering any of the following:

(1) The member's responses to the application questionnaire.

(2) The member's medical records.

(3) Communication with or other outreach to the insurer, the member, or the member's provider or providers.

(4) The member's past claims history, if available and accessible.

(5) Other processes, as determined by the office.

(i) If, under subsection (h), the office determines that a member is not medically frail, the member shall no longer receive HIP State Plan benefits and shall be transferred to:

(1) HIP Plus if the member is currently enrolled in HIP State Plan Plus; or

(2) HIP Basic if the member is currently enrolled in HIP State Plan Basic.

An individual determined not medically frail under this subsection may appeal the determination directly to the state in accordance with [405 IAC 10-5-1](#).

*(Office of the Secretary of Family and Social Services; [405 IAC 10-6-1](#))*

## Rule 7. Benefits and Medical Policy

### [405 IAC 10-7-1](#) Coverage requirements; medically necessary service

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 1. For a service to be covered under the plan, it shall be medically necessary as defined in [405 IAC 10-2-1\(30\)](#).

*(Office of the Secretary of Family and Social Services; [405 IAC 10-7-1](#))*

### [405 IAC 10-7-2](#) HIP Basic covered benefits and services; noncovered services

Authority: [IC 12-15-44.2](#)

Affected: [IC 12-15-44.2](#)

Sec. 2. (a) This section outlines the services available to an individual enrolled in HIP Basic. The covered services provided under HIP Basic are in accordance with the essential health benefit requirements under 42 CFR 440.347 for alternative benefit plans.

(b) HIP Basic shall include covered services in each of the following categories:

- (1) Ambulatory patient services.
- (2) Emergency services.
- (3) Hospitalization.
- (4) Maternity services.
- (5) Mental health and substance abuse services.
- (6) Prescription drugs.
- (7) Rehabilitative and habilitative services and devices.
- (8) Laboratory services.
- (9) Preventive care services.
- (10) Early and periodic screening, diagnostic, and treatment services for members nineteen (19) and twenty (20) years of age.

(c) The following services shall not be covered under HIP Basic:

- (1) Services that are not medically necessary.
- (2) Dental services.
- (3) Vision services.
- (4) Nonemergency transportation services.
- (5) Any other services not approved by the Centers for Medicare and Medicaid Services in the HIP Basic alternative benefit plan.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-7-2](#))*

### [405 IAC 10-7-3](#) HIP Plus covered benefits and services; noncovered services

Authority: [IC 12-15-44.2](#)

Affected: [IC 12-15-44.2](#)

Sec. 3. (a) This section outlines the services available to an individual enrolled in HIP Plus. The covered services provided under HIP Plus are in accordance with the essential health benefit requirements under 42 CFR 440.347 for alternative benefit plans.

(b) HIP Plus shall include covered services in each of the following categories:

- (1) Ambulatory patient services.
- (2) Emergency services.
- (3) Hospitalization.
- (4) Maternity services.

- (5) Mental health and substance abuse services.
- (6) Prescription drugs.
- (7) Rehabilitative and habilitative services and devices.
- (8) Laboratory services.
- (9) Preventive care services.
- (10) Vision services.
- (11) Dental services.
- (12) Early and periodic screening, diagnostic, and treatment services for members nineteen (19) and twenty (20) years of age.

(c) The following services shall not be covered under HIP Plus:

- (1) Services that are not medically necessary.
- (2) Nonemergency transportation services.
- (3) Any other services not approved by the Centers for Medicare and Medicaid Services in the HIP Plus alternative benefit plan.

(Office of the Secretary of Family and Social Services; [405 IAC 10-7-3](#))

#### [405 IAC 10-7-4](#) HIP State Plan

Authority: [IC 12-15-44.2](#)

Affected: [IC 12-15-44.2](#)

Sec. 4. (a) This section outlines services available to a member enrolled in HIP State Plan. All covered services under HIP State Plan are subject to the coverage criteria, limitations, and procedures specified in this article as well as those services specified in the Centers for Medicare and Medicaid Services approved Medicaid State Plan.

(b) HIP State Plan shall include covered services in the following categories that are equivalent to the Medicaid State Plan:

- (1) Ambulatory patient services.
- (2) Emergency services.
- (3) Hospitalization.
- (4) Maternity services.
- (5) Mental health and substance abuse services.
- (6) Prescription drugs.
- (7) Rehabilitative and habilitative services and devices.
- (8) Laboratory services.
- (9) Preventive care services.
- (10) Vision services.
- (11) Dental services.
- (12) Early and periodic screening, diagnostic, and treatment services for members nineteen (19) and twenty (20) years of age.

(c) The following services shall not be covered under HIP State Plan:

- (1) Services that are not medically necessary.
- (2) Any other services not covered by the Centers for Medicare and Medicaid Services approved Medicaid State Plan.

(Office of the Secretary of Family and Social Services; [405 IAC 10-7-4](#))

#### [405 IAC 10-7-5](#) Mental health parity

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 5. Coverage of mental health care services shall be subject to the same treatment limitations or financial requirements as coverage of services for physical illness.

(Office of the Secretary of Family and Social Services; [405 IAC 10-7-5](#))

**[405 IAC 10-7-6](#) Prescription drug benefits**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 6. (a) For purposes of prescription drug benefits, HIP Basic and HIP Plus shall cover, at a minimum:

- (1) one (1) drug in every United States Pharmacopeia category and class; or
- (2) the same number of prescription drugs in each category and class of the essential health benefits benchmark plan.

(b) A HIP Basic member may only access a brand name prescription drug if either:

- (1) the insurer approves a prior authorization request for the brand name drug; or
- (2) the individual accesses the drug through step therapy.

(c) Subject to subsection (d), HIP State Plan Plus and HIP State Plan Basic health plans shall provide prescription drug benefits in accordance with the requirements of legend drugs in the Medicaid fee-for-service program as set forth in [405 IAC 5-24-3](#).

(d) HIP Basic and HIP State Plan Basic prescription drug coverage shall be:

- (1) limited to no more than a thirty (30) day prescription drug supply; and
- (2) subject to a copayment in accordance with [405 IAC 10-10-3\(b\)](#).

(e) HIP Plus and HIP State Plan Plus pharmacy benefits include:

- (1) up to a ninety (90) day prescription supply;
- (2) mail order pharmacy benefit; and
- (3) medication therapy management services.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-7-6](#))*

**[405 IAC 10-7-7](#) Laboratory services**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 7. Covered laboratory services include only laboratory services provided by laboratories or providers certified by Clinical Laboratory Improvement Amendments.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-7-7](#))*

**[405 IAC 10-7-8](#) Preventive care services**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 8. (a) Preventive care services as set forth in 42 U.S.C. 300gg-13 shall be covered, regardless of whether the member has met the member's deductible, and shall not be reimbursed using the member's POWER account.

(b) Preventive care services not set forth in 42 U.S.C. 300gg-13 shall be covered up to five hundred dollars (\$500) during the member's benefit period, regardless of whether the member has met the member's deductible, and shall not be reimbursed using the member's POWER account. Any such services in excess of five hundred dollars (\$500) shall be covered but shall be subject to the member's deductible and shall be reimbursed using the member's POWER account.

(c) A member's failure to receive preventive care services applicable to the member during the benefit period may impact the rollover of POWER account funds as outlined in [405 IAC 10-10-5\(c\)](#) and [405 IAC 10-](#)



**[10-5\(d\)](#)**.

(d) If an insurer determines that a member has not met the member's preventive care requirements during the benefit period, such member may submit documentation to the insurer showing that the member received the required preventive care services.

(Office of the Secretary of Family and Social Services; [405 IAC 10-7-8](#))

**[405 IAC 10-7-9](#) Emergency room visits; copayments**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 9. (a) Except as provided under subsection (g), a member shall be subject to an eight dollar (\$8) copayment for the member's first nonemergency use of a hospital emergency department and a twenty-five dollar (\$25) copayment for each subsequent nonemergency use of a hospital emergency department during the benefit period.

(b) The following members shall be exempt from paying the copayments described under subsection (a) or (g):

- (1) Pregnant women.
- (2) American Indians/Alaskan Natives.
- (3) Individuals who meet the requirements of [405 IAC 10-10-3\(f\)](#).

(c) The copayments described under subsection (a) shall not apply if:

- (1) the member is found to have an emergency medical condition;
- (2) the member is admitted to the hospital within twenty-four (24) hours of the emergency department visit; or
- (3) the member contacted the member's insurer's twenty-four (24) hour nurse hotline prior to seeking services from a hospital emergency department regarding the emergency medical condition for which the member is seeking emergency department services.

(d) A hospital provider shall conduct an appropriate medical screening examination as provided under 42 U.S.C. 1395dd prior to rendering any medical services. If the provider determines that the member does not have an emergency medical condition, the provider shall inform the member of the informational requirements under 42 U.S.C. 1396o-1(e) prior to rendering any medical services.

(e) Hospital providers shall be responsible for collecting emergency room copayments incurred under this section.

(f) A member may not use the member's POWER account to pay for emergency room copayments incurred under this section.

(g) Effective through January 31, 2017, and under the approval of the Centers for Medicare and Medicaid Services, the office may exempt randomly selected members from the graduated copayment requirement described in subsection (a). This group shall consist of no fewer than five thousand (5,000) members. Such members shall be subject to an eight dollar (\$8) copayment for each nonemergency use of a hospital emergency department during the benefit period. Subsections (b) through (f) shall apply to this group.

(Office of the Secretary of Family and Social Services; [405 IAC 10-7-9](#))

**[405 IAC 10-7-10](#) Out-of-network services**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

**Sec. 10. The following services shall be covered under the plan, even if provided out-of-network:**

- (1) Family planning services.
- (2) Emergency services.
- (3) Medically necessary covered services if the member's insurer is unable to provide the services in network within:
  - (A) thirty (30) miles of the member's residence for primary care; and
  - (B) sixty (60) miles of the member's residence for specialty care.
- (4) Nurse practitioner services that are medically necessary covered services provided within the scope of the nurse practitioner's applicable license and certification.
- (5) Medically necessary covered services provided at a federally qualified health center or rural health clinic.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-7-10](#))*

#### **[405 IAC 10-7-11](#) Self-referral services**

**Authority:** [IC 12-15-44.2-19](#)

**Affected:** [IC 12-15-11](#); [IC 12-15-44.2](#); [IC 27-8-14.5-6](#)

**Sec. 11. (a) A member may receive the following covered services without a referral from the member's primary medical provider or prior authorization or precertification from the member's insurer:**

- (1) Family planning services.
- (2) Emergency services.

**(b) A member may receive the following services without a referral from the member's primary medical provider, provided the service is a covered service under such member's benefits package and subject to any requirements established by the insurer regarding the use of in-network providers:**

- (1) Psychiatric services provided by a provider licensed under [IC 12-15-11](#).
- (2) Behavioral health services.
- (3) Immunization services.
- (4) Diabetes self-management training services, as set forth in [IC 27-8-14.5-6](#).
- (5) Chiropractic services.
- (6) Eye care services, except for surgical services on the eye.
- (7) Podiatric services.
- (8) Urgent care services.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-7-11](#))*

#### **[405 IAC 10-7-12](#) Prior authorization**

**Authority:** [IC 12-15-44.2-19](#)

**Affected:** [IC 12-15-44.2](#)

**Sec. 12. (a) An insurer may implement utilization control procedures, including prior authorization or precertification of services as provided under 42 CFR 438.210. The following services shall be exempt from prior authorization:**

- (1) Emergency services, subject to the requirements of section 9 of this rule.
- (2) Family planning services.
- (3) Urgent care.

**(b) A provider that:**

- (1) has an agreement with the office; and
- (2) renders services to a member;

**shall follow the utilization control procedures implemented by the member's insurer under subsection (a) whether that provider has a contract with the member's insurer.**

**(c) Insurers shall make decisions regarding prior authorization and precertification in accordance with the requirements of [405 IAC 5-3-14](#).**

## Rule 8. Insurers and Administrators

### [405 IAC 10-8-1](#) Unauthorized cost sharing

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 1. (a) Insurers and providers shall not charge, collect, or impose cost sharing, including premiums, copayments, or coinsurance, to plan members for covered services, except in the following circumstances:

- (1) Deductible amounts paid for with funds out of a member's POWER account.
- (2) Emergency room copayments, as set forth in [405 IAC 10-7-9](#).
- (3) Copayments, as set forth in [405 IAC 10-10-3\(b\)](#).

(b) In those instances where the insurer pays for a service at the Medicare rate, any cost sharing that would typically be applicable in the Medicare program:

- (1) shall not be applicable; and
- (2) shall be included in the rate paid by the insurer.

(c) Notwithstanding subsection (a), insurers and providers shall not charge, collect, or impose cost sharing, including premiums, copayments, or coinsurance, for any covered service to a member who is:

- (1) pregnant; or
- (2) an American Indian/Alaskan Native.

(Office of the Secretary of Family and Social Services; [405 IAC 10-8-1](#))

### [405 IAC 10-8-2](#) Changing insurers

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 2. (a) A member shall remain enrolled with the same insurer during the member's benefit period. A member may change insurers upon request only in the following circumstances:

- (1) Without cause before making the member's fast track prepayment or initial POWER account contribution or within sixty (60) days of being assigned to an insurer, whichever comes first.
- (2) For cause at any time. A member under this subsection may request to change insurers at any time by submitting a grievance to the insurer and receiving the insurer's or the division's approval.
- (3) Without cause, at renewal, if the member submits the request to change insurers to the enrollment broker at least forty-five (45) days prior to the end of the member's benefit period.
- (4) At any time during the member's pregnancy, a member in the pregnant women Medicaid category may request to change insurers through the enrollment broker.

(b) For purposes of subsection (a)(2), "for cause" includes any of the following:

- (1) The causes for disenrollment set forth in 42 CFR 438.56(d)(2)(i) – (iii).
- (2) Receiving poor quality care.
- (3) Failure of the insurer to provide covered services.
- (4) Failure of the insurer to comply with established standards of medical care administration.
- (5) Lack of access to providers experienced in dealing with the member's health care needs.
- (6) Significant language or cultural barriers.
- (7) Corrective action levied against the insurer by the office.
- (8) Limited access to a primary care clinic or other health services within reasonable proximity to a member's residence.
- (9) A determination that another insurer's formulary is more consistent with a new member's existing health care needs.
- (10) Other circumstances determined by the office to constitute poor quality of health care coverage.

(c) A member who receives an unfavorable decision from the insurer under subsection (a)(2) may submit a request for reconsideration pursuant to the instructions in the insurer's notice of decision. A request for reconsideration shall be deemed approved if official action is not taken on the request by the first day of the second month following the month in which the individual submits the request. A member who files a grievance with the insurer and completes the reconsideration process shall be considered to have met the requirements of [405 IAC 10-5-2](#) for purposes of filing an appeal with the state.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-8-2](#))*

#### [405 IAC 10-8-3](#) Network

Authority: [IC 12-15-44.2-19](#)

Affected: [12-15-44.2](#)

Sec. 3. The insurer shall maintain and monitor an adequate network of providers in accordance with 42 CFR 438.206. The insurer shall not maintain network differentiation between its HIP Plus and HIP Basic benefit plans.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-8-3](#))*

### Rule 9. Providers

#### [405 IAC 10-9-1](#) Provider enrollment

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 1. (a) With the exception of emergency services providers, a provider rendering covered services to a member shall be enrolled in the Indiana Medicaid program at the time of service in order to receive reimbursement. An emergency services provider who is not enrolled in the Indiana Medicaid program at the time of service shall enroll in the Indiana Medicaid program retroactive to the date of service in order to receive reimbursement.

(b) In order to enroll as a provider as required under subsection (a), the provider shall comply with the procedures set forth in [405 IAC 5-4-1](#).

(c) A provider providing covered services to members shall provide the services under a contract with an insurer except in the following circumstances:

(1) If the service provided is listed in [405 IAC 10-7-10](#).

(2) If the insurer:

(A) has designed an out-of-network benefit for its members; or

(B) otherwise approves the out-of-network service.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-9-1](#))*

#### [405 IAC 10-9-2](#) Provider grievances and appeals; insurers

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 2. (a) The right of providers contracting with insurers to dispute any actions taken by the insurer shall be governed by the provider's contract with the insurer.

(b) The reimbursement dispute resolution procedure set forth at [405 IAC 1-1.6](#) shall apply to providers who do not have a contract with an insurer for services provided under the plan.

(c) Any provider disputes involving prior authorization determinations made by the insurers shall be governed by the insurers' procedures for provider grievances and appeals.

(d) A contracted or noncontracted provider shall have no right to appeal an insurer's action to the state.

(Office of the Secretary of Family and Social Services; [405 IAC 10-9-2](#))

#### [405 IAC 10-9-3](#) Provision of covered services; verification of enrollment

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 3. (a) Except as provided in subsection (b), before providing any nonemergency service covered under the plan, a provider shall verify all of the following:

- (1) The individual is eligible for the plan.
- (2) The individual is enrolled with an insurer.
- (3) The individual is enrolled in the plan at the time the service is being provided.
- (4) The individual whose name appears on the card is the same individual for whom the service is being performed.
- (5) The service is covered under the member's benefit plan.

Failure to do so may result in denial of the provider's claim if the individual is not enrolled in the plan or the service is not authorized.

(b) Hospitals providing services to individuals during the presumptive eligibility period in accordance with [405 IAC 10-4-11\(c\)](#), [405 IAC 10-4-11\(d\)](#), or [405 IAC 10-4-11\(e\)](#) shall be exempt from the requirements of subsection (a)(1) and (a)(2). Such hospitals shall verify that the individual is eligible for presumptive eligibility under [405 IAC 10-4-11](#).

(c) If an individual is disenrolled from an insurer while receiving inpatient hospital services covered under the plan, the insurer shall pay any claims related to the covered inpatient hospital services provided to the member through the date of discharge.

(Office of the Secretary of Family and Social Services; [405 IAC 10-9-3](#))

#### [405 IAC 10-9-4](#) Provider reimbursement; insurers

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2-14](#)

Sec. 4. (a) Reimbursement matters including:

- (1) the time limit for filing claims; and
- (2) rates paid to providers contracting with insurers;

shall be governed by the contract between the provider and the insurer.

(b) Reimbursement rates paid by insurers to providers without contracts who render services to plan members shall be at plan reimbursement rates governed by [IC 12-15-44.2-14\(a\)\(2\)](#).

(c) No provider retains any independent or duplicative right for reimbursement from the office in addition to or in lieu of reimbursement received from the insurer.

(Office of the Secretary of Family and Social Services; [405 IAC 10-9-4](#))

#### [405 IAC 10-9-5](#) Reimbursement process; provider reimbursement rates; POWER account

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

**Sec. 5. (a) A provider shall be reimbursed for covered services as follows:**

(1) Until the member's deductible is met, with POWER account funds accessed through the member's POWER account and paid by the insurer. If the member lacks sufficient POWER account funds at the time of service, the insurer shall pay for any portion of the plan reimbursement rate that cannot be paid with POWER account funds but shall reconcile these prepaid amounts as additional POWER account funds are received from the member.

(2) For all covered preventive care services, which are not subject to the member's deductible, by the insurer.

(3) For covered services under the member's health plan after the deductible has been met, by the insurer.

The provider shall be reimbursed at the plan reimbursement rate.

(b) Reimbursement shall not be available for services provided to individuals who are not enrolled in the plan on the date the service is provided except as provided under the following:

(1) To those individuals whose coverage dates back to the first of the month as outlined in [405 IAC 10-3-2](#) or [405 IAC 10-3-3](#).

(2) To an individual in accordance with section 3(b) and 3(c) of this rule.

(3) To a member described in [405 IAC 10-4-4](#)(e) who:

(A) did not gain coverage through presumptive eligibility as set forth at [405 IAC 10-4-11](#);

(B) received a covered service no later than ninety (90) days prior to the date the member was determined eligible for the plan by the division; and

(C) had a claim submitted on the member's behalf by a provider seeking reimbursement for the service identified in clause (B).

(c) The plan reimbursement rate defined in [405 IAC 10-2-1](#)(37) does not include:

(1) critical access hospital payments;

(2) graduate medical education payments; or

(3) disproportionate share hospital payments.

(d) Insurers shall reimburse federally qualified health centers and rural health clinics for covered services at the Medicare all-inclusive rate for each visit. In the event the amount paid by insurers is less than the amount set forth in 42 U.S.C. 1396a(bb), the office shall make a supplemental payment in accordance with 42 U.S.C. 1396a(bb)(5).

*(Office of the Secretary of Family and Social Services; [405 IAC 10-9-5](#))*

#### [405 IAC 10-9-6](#) Member payment liability

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

**Sec. 6. A provider shall accept plan reimbursement as payment in full. A provider cannot collect from a member any portion of the provider's charge for a covered service that is not reimbursed by the insurer, with the exception of the following:**

(1) Emergency room copayments authorized under this article.

(2) Payments made with POWER account funds before the deductible of the member's health plan is met.

(3) Copayments authorized under [405 IAC 10-10-3](#)(b).

*(Office of the Secretary of Family and Social Services; [405 IAC 10-9-6](#))*

### Rule 10. POWER Accounts and Copayments

#### [405 IAC 10-10-1](#) Establishment of POWER account; noninterest bearing account

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)



**Sec. 1. (a) The insurer shall establish and administer a POWER account in the name of each individual enrolled in the plan. The maximum amount that may be contributed to the POWER account is two thousand five hundred dollars (\$2,500) per year, contributed as specified under section 4 of this rule.**

**(b) POWER account funds shall be used to pay the member's deductible for health care services covered under the plan.**

**(c) A member shall not keep interest earned on the member's POWER account.**

*(Office of the Secretary of Family and Social Services; [405 IAC 10-10-1](#))*

#### **[405 IAC 10-10-2](#) Uses of POWER account funds**

**Authority: [IC 12-15-44.2-19](#)**

**Affected: [IC 12-15-44.2](#)**

**Sec. 2. (a) Each member shall be responsible for the member's use of funds in the member's POWER account until the deductible is met. A member's POWER account funds shall only be used to pay for covered services and shall not be used to pay the following:**

- (1) The emergency room services copayment described in [405 IAC 10-7-9](#).**
- (2) HIP Basic copayments as set forth in section 3(b) of this rule.**
- (3) Any other cost not covered in the member's specific benefit package as listed in [405 IAC 10-7-2](#), [405 IAC 10-7-3](#), or [405 IAC 10-7-4](#).**

**(b) Members may use POWER account funds to pay for covered out-of-network services described in [405 IAC 10-7-10](#).**

*(Office of the Secretary of Family and Social Services; [405 IAC 10-10-2](#))*

#### **[405 IAC 10-10-3](#) POWER account contributions; copayments**

**Authority: [IC 12-15-44.2-19](#)**

**Affected: [IC 12-15-44.2](#)**

**Sec. 3. (a) A member enrolled in either HIP Plus or HIP State Plan Plus shall be required to contribute a monthly amount to the member's POWER account. Except as provided in subsection (g), a member's monthly POWER account contribution shall be determined by multiplying a member's annual household income by two percent (2%) and dividing by twelve (12). In no event shall the member's monthly POWER account payment exceed one hundred dollars (\$100) per month or be less than one dollar (\$1) per month.**

**(b) Except as provided under subsection (c), a member enrolled in HIP Basic or HIP State Plan Basic shall not be required to make monthly contributions to the member's POWER account but shall be charged a copayment at the time services are rendered, as follows:**

- (1) Four dollars (\$4) for outpatient services.**
- (2) Seventy-five dollars (\$75) for inpatient services.**
- (3) Four dollars (\$4) for preferred drugs.**
- (4) Eight dollars (\$8) for nonpreferred drugs.**

**(c) The following members shall not be subject to cost sharing under this section:**

- (1) An American Indian/Alaskan Native.**
- (2) A pregnant woman.**
- (3) Any individual who meets the requirements in subsection (f).**

**(d) No copayment shall be required for the following services:**

- (1) Preventive care services.**
- (2) Family planning services.**
- (3) Maternity services.**

(e) A provider shall be responsible for collecting the required copayments at the time services are provided. A provider may not deny a service to a member if such member is unable to pay the copayment at the time of service delivery. If a member does not pay the copayment at the time services are provided, the member shall still be responsible for paying the copayment and the provider may bill the member for the copayment amount owed.

(f) A member's out-of-pocket cost sharing amount shall not exceed five percent (5%) of the member's annual household income, except that all HIP Plus or HIP State Plan Plus members whose household income is at or below five percent (5%) of the FPL shall be required to contribute, at a minimum, monthly one dollar (\$1) POWER account contributions.

(g) In a family with two (2) or more members, each member shall have a POWER account established in accordance with section 1 of this rule, but the total of both members' required POWER account contributions cannot exceed two percent (2%) of the monthly household income, subject to the one dollar (\$1) minimum contribution amount set forth in subsection (f).

*(Office of the Secretary of Family and Social Services; [405 IAC 10-10-3](#))*

#### **[405 IAC 10-10-4](#) POWER account contributions; state contributions; employer contributions**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 4. (a) The state shall contribute the difference between:

- (1) the member's annual contribution; and
- (2) two thousand five hundred dollars (\$2,500).

(b) Amounts may be contributed to a member's POWER account by:

- (1) a member;
- (2) a member's employer, if the contribution is not from funds payable by the employer to the employee;
- (3) any third party, subject to the restrictions in subsection (d); or
- (4) the insurer, under which the member is enrolled, if the payment:
  - (A) is to provide a health incentive to the member; and
  - (B) does not count toward the member's required contributions as set forth in section 3(a) of this rule.

(c) In no event shall a member's POWER account balance exceed two thousand five hundred dollars (\$2,500).

(d) A health care provider or provider-related entity may make a contribution to a member's POWER account in accordance with subsection (b)(3), provided:

- (1) the provider or provider-related entity establishes criteria for providing assistance that do not distinguish between individuals based on whether they receive or will receive services from the contributing provider or providers or class of providers; and
- (2) the provider or provider-related entity does not include the cost of such payments in either the cost of care for purposes of Medicare and Medicaid cost reporting or included as part of a Medicaid shortfall or uncompensated care for any purpose.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-10-4](#))*

#### **[405 IAC 10-10-5](#) Annual recalculation of POWER account contribution; rollover; copayment**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 5. (a) For a member who remains eligible for the plan at the end of the benefit period, the state shall recalculate such member's POWER account contribution as part of the renewal process. This may

occur after the new benefit period has begun. POWER account contributions recalculated pursuant to this section shall be effective the first day of the month following the recalculation.

(b) A member enrolled in HIP Plus or HIP State Plan Plus with a balance remaining in the member's POWER account at the end of the benefit period may be eligible to roll over a portion of the account balance to reduce such member's POWER account contributions for the new benefit period in accordance with subsection (c) or (d), as applicable.

(c) If a member enrolled in HIP Plus or HIP State Plan Plus has met the member's preventive care services goals as set by the office for the expiring benefit period as set forth in [405 IAC 10-7-8](#), the member's final rollover amount shall be calculated as follows:

(1) The member's portion is determined by adding the member's required annual contribution for the expiring benefit period to any balance rolled over from previous benefit periods and dividing that sum by two thousand five hundred dollars (\$2,500).

(2) The base rollover amount is determined by multiplying the member's portion as determined in subdivision (1) by any remaining balance in the POWER account.

(3) The final rollover amount is determined by multiplying the base rollover amount as determined in subdivision (2) by two (2).

(d) If a member enrolled in HIP Plus or HIP State Plan Plus has not met the member's preventive care services goals as set by the office for the expiring benefit period as set forth in [405 IAC 10-7-8](#), the member's final rollover amount shall be calculated only in accordance with subsection (c)(1) and (c)(2). Such member's base rollover amount shall not be multiplied by two (2).

(e) A HIP Basic or HIP State Plan Basic member with a POWER account balance remaining at the end of the expiring benefit period shall be eligible to receive a discount on the POWER account contribution such member would need to make in order to be enrolled in the HIP Plus or HIP State Plan Plus plan for the new benefit period. The HIP Plus discount for a HIP Basic or HIP State Plan Basic member with a POWER account balance shall be calculated as follows:

(1) Divide the remaining balance in the POWER account by two thousand five hundred dollars (\$2,500). If the resulting percentage is less than or equal to fifty percent (50%), then that percentage shall be used in subdivision (2). However, if the resulting percentage is greater than fifty percent (50%), then the percentage shall be capped at fifty percent (50%) for purposes of subdivision (2).

(2) Multiply the required POWER account contribution for the current benefit period by the percentage calculated in subdivision (1).

(3) Subtract the product calculated in subdivision (2) from the POWER account contribution for the current benefit period.

(f) The insurers may collect member debt, if any, as calculated under section 7 of this rule, from the member portion of rollover funds calculated in either subsection (c), (d), or (e). The resulting amount shall reduce the member's annual POWER account contribution for the new benefit period. No rollover funds contributed by the state may be used to pay member debt.

(g) The insurer shall reconcile a member's POWER account for the rollover process described in this section no later than one hundred twenty (120) days after the end of the benefit period. A member who remains enrolled in HIP Basic or HIP State Plan Basic at the time the member receives notice of the amount of the discount set forth in subsection (e) shall have a period of sixty (60) days from the date of such notice to transfer to HIP Plus or HIP State Plan Plus by making a POWER account contribution at the new discounted rate.

(h) In the event the amount of the member's POWER account balance that is rolled over at the end of the benefit period exceeds the amount of the member's annual POWER account contribution for the new benefit period, the member shall not receive a refund of the excess amount. The excess funds shall be returned to the office.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-10-5](#))*

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**[405 IAC 10-10-6](#) POWER account balance; termination and disenrollment**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#); [IC 32-34](#)

Sec. 6. (a) If a member loses plan eligibility due to nonpayment of POWER account contributions as specified in section 12 of this rule, the member shall be paid only a portion of the balance remaining in the member's POWER account as calculated in subsection (b).

(b) If a member loses plan eligibility for reasons set forth in subsection (a), the member refund shall be calculated as follows:

- (1) Divide the total contributions made on the member's behalf in accordance with section 4(b) of this rule during the current benefit period by the total amount paid into the POWER account from all sources.
- (2) Multiply the ratio calculated in subdivision (1) by the total amount remaining in the individual's POWER account.
- (3) Subtract member debt, if any, as calculated under section 7 of this rule.
- (4) Multiply the amount calculated in subdivision (3) by seventy-five hundredths (.75) to determine the amount to be returned to the individual.

(c) If a member loses plan eligibility for reasons other than those set forth in subsection (a), the member shall be paid a portion of the balance remaining in the member's POWER account, calculated as follows:

- (1) Divide the total contributions made on the member's behalf in accordance with section 4(b) of this rule during the current benefit period by the total amount paid into the POWER account from all sources.
- (2) Multiply the amount calculated in subdivision (1) by the total amount remaining in the member's POWER account to determine the amount to be returned to the individual.
- (3) Subtract member debt, if any, as calculated under section 7 of this rule.

(d) The insurer shall return the amount calculated in subsection (b) or (c) to the member within sixty (60) days of the last date that the individual was a member in the plan. The former member shall be liable for the POWER account portion of any claims for covered services with dates of service occurring during the prior benefit period but after the POWER account balance has been paid to the former member. The former member shall not be liable for claims originally denied but overturned on appeal if the appealed claim is paid more than sixty (60) days following the member's last date of participation in the plan.

(e) After payment to the member of the amount calculated in subsection (b) or (c), the state shall retain any remaining POWER account balance.

(f) In the event that a member:

- (1) cannot be located; or
- (2) otherwise does not claim the amount calculated in subsection (b) or (c);

such amount shall be treated as unclaimed property and shall be subject to the Unclaimed Property Act, [IC 32-34-1](#).

*(Office of the Secretary of Family and Social Services; [405 IAC 10-10-6](#))*

**[405 IAC 10-10-7](#) Member debt**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 7. (a) For purposes of this section, "debt" means amounts that accrue as a result of:

- (1) an insurer's advance payment of the member's portion of the deductible as provided under [405 IAC 10-9-5\(a\)\(1\)](#) that has not been repaid through the member's POWER account contributions; or
- (2) any nonsufficient funds check charges resulting from a member's payments to an insurer as a result of payment processing.

(b) A member's debt under subsection (a)(1) shall be calculated as follows:

(1) Divide the member's annual POWER account contribution amount by two thousand five hundred dollars (\$2,500).

(2) Multiply the amount of claims paid up to two thousand five hundred dollars (\$2,500) during the benefit period by the amount determined in subdivision (1).

(3) Subtract the total monthly individual contributions paid by the member during the benefit period by the amount determined under subdivision (2).

(c) A member's debt under this section shall not exceed the following amounts:

(1) For a member with household income above one hundred percent (100%) of the FPL, an amount that does not exceed ten percent (10%) of the cost of services received.

(2) For a member with household income at or below one hundred percent (100%) of the FPL, an amount that does not exceed the sum of the unpaid monthly contributions as determined in accordance with section 3(a) of this rule that accrued during the months in which the member received HIP Plus coverage.

(d) In some cases, the two thousand five hundred dollar (\$2,500) deductible will be met before a HIP Plus or HIP State Plan Plus member has made all of the member's required contributions. The fact that a member has not yet made all required POWER account contributions does not relieve the insurer of the responsibility to pay providers for covered services rendered. An insurer may deduct amounts a member owes from future POWER account contributions.

(e) If a member ends participation in the plan before the conclusion of the member's twelve (12) month benefit period and the individual has debt, the insurer may collect from the individual.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-10-7](#))*

#### **[405 IAC 10-10-8](#) Reporting changes**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 8. A member shall promptly report any change that may affect the member's continued eligibility in the plan, including any of the following qualifying events:

(1) A change in family status that results in an increase or decrease in the number of individuals in the member's household.

(2) Any change in employment status or household income.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-10-8](#))*

#### **[405 IAC 10-10-9](#) POWER account contributions; billing; payment options**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2-10](#)

Sec. 9. A member shall, at a minimum, make the required POWER account contribution within sixty (60) days from the first day of the coverage month for which the POWER account contribution is owed each month to remain eligible. Any excess payments a member pays in a given month shall offset the following months' payments.

*(Office of the Secretary of Family and Social Services; [405 IAC 10-10-9](#))*

#### **[405 IAC 10-10-10](#) Third party contributions**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 10. (a) An employer or other third party defined in section 4(b)(3) of this rule may contribute up to one hundred percent (100%) of a member's annual POWER account obligation. If such an entity

contributes less than a member's annual POWER account obligation, such amount shall be applied to the member's next due POWER account payment. Any excess amount shall be carried over from month to month until it is exhausted. A member shall be responsible for paying any balance in a given month.

(b) Any contribution received from an employer or other third party defined in section 4(b)(3) of this rule shall be used to offset the member's required POWER account contribution only, and shall not be used to offset the state's contribution to the POWER account set forth in section 4(a) of this rule.

(Office of the Secretary of Family and Social Services; [405 IAC 10-10-10](#))

**[405 IAC 10-10-11](#) Billing; prior year contribution amount**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 11. (a) If a member's first POWER account contribution for a new benefit period becomes due before the division calculates the member's new POWER account contribution, the insurer may bill the member in the amount of the POWER account contribution for the previous benefit period.

(b) Any overpayments or underpayments a member makes as a result of subsection (a) shall be reconciled within thirty (30) days of notification by the state of the member's recalculated POWER account contribution amount for the new benefit period. An overpayment or underpayment may impact a member's future POWER account obligations as a result of subsection (a).

(Office of the Secretary of Family and Social Services; [405 IAC 10-10-11](#))

**[405 IAC 10-10-12](#) Nonpayment of monthly POWER account contribution; termination**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 12. (a) A HIP Plus or HIP State Plan Plus member who does not make a required monthly POWER account contribution within the time frame established in section 9 of this rule shall receive a notice of nonpayment. Upon receiving a notice of nonpayment:

(1) except as provided in section 13 of this rule, a member with household income above one hundred percent (100%) of the FPL shall:

(A) be terminated from participation in the plan; and

(B) not be allowed to reapply for a period of six (6) months from the notice of nonpayment; or

(2) a member with household income at or below one hundred percent (100%) of the FPL shall be:

(A) transferred to HIP Basic, if previously enrolled in HIP Plus; or

(B) transferred to HIP State Plan Basic, if previously enrolled in HIP State Plan Plus.

(b) Any funds remaining in the POWER account of a member terminated pursuant to subsection (a)(1) shall be credited to the state and returned to the individual as provided in section 6(b) of this rule.

(c) A member who voluntarily withdraws from the plan:

(1) shall be subject to subsection (b); and

(2) except as otherwise provided in section 13 of this rule, may not reapply to the plan for a period of six (6) months from the date of withdrawal from the plan.

(Office of the Secretary of Family and Social Services; [405 IAC 10-10-12](#))

**[405 IAC 10-10-13](#) Exceptions to nonpayment penalties and plan lockout periods.**

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 13. (a) A member exempt from cost sharing pursuant to section 3(c) of this rule shall not be



subject to any of the nonpayment penalties set forth in section 12(a) of this rule.

(b) A medically frail individual with household income over one hundred percent (100%) of the FPL shall not be subject to disenrollment for nonpayment under section 12(a)(1) of this rule, but shall:

- (1) remain in HIP State Plan Plus;
- (2) be required to pay copayments as set forth in section 3(b) of this rule; and
- (3) continue to be billed for monthly POWER account contributions and accrue debt to the insurer.

Such member shall no longer be subject to the copayment requirement under subsection (b)(2) if, at the member's annual renewal, the member pays the first month POWER account contribution in the new benefit period.

(c) A member disenrolled under section 12(a) of this rule or [405 IAC 10-4-9](#) may reenroll in the plan prior to the expiration of the six (6) month lockout period if such individual is determined to be medically frail during the lockout period. Such individual shall reapply for the plan and be verified as medically frail in accordance with [405 IAC 10-6-1](#)(e) before the individual may be reenrolled in the plan under this subsection.

(d) A member eligible for transitional medical assistance with household income over one hundred percent (100%) of the FPL shall not be subject to disenrollment for nonpayment under section 12(a)(1) of this rule, but shall transition to HIP State Plan Basic for the duration of the member's transitional medical assistance period in accordance with [405 IAC 10-4-5](#)(c).

(e) A member disenrolled under section 12(a) of this rule or [405 IAC 10-4-9](#) shall not be subject to the six (6) month lockout period but may be reinstated to the plan prior to the expiration of the six (6) month lockout, if a new application is filed and the individual can provide verification that one (1) of the following qualifying events caused the disenrollment:

- (1) Obtained and subsequently lost private insurance coverage.
- (2) Had a loss of income after disqualification due to increased income.
- (3) Took up residence in another state and later returned.
- (4) Was a victim of domestic violence.
- (5) Was residing in a county subject to a disaster declaration made in accordance with [IC 10-14-3-12](#) at any time during the sixty (60) calendar days prior to or including the date such member was terminated from the plan.

(Office of the Secretary of Family and Social Services; [405 IAC 10-10-13](#))

#### [405 IAC 10-10-14](#) POWER account cards

Authority: [IC 12-15-44.2-19](#)

Affected: [IC 12-15-44.2](#)

Sec. 14. Each member shall receive a membership card upon enrollment in the plan. A member may only use the member's membership card for approved plan benefits delivered by approved providers.

(Office of the Secretary of Family and Social Services; [405 IAC 10-10-14](#))

SECTION 2. [405 IAC 9](#) IS REPEALED.

#### [Notice of Public Hearing](#)

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