

Final Rule

LSA Document #14-338(F)

DIGEST

Adds [405 IAC 5-37-0.5](#) to define tobacco dependence treatment and tobacco products. Amends [405 IAC 5-37-1](#) to change reimbursement criteria for tobacco dependence treatment. Amends [405 IAC 5-37-2](#) to change reimbursement criteria for tobacco dependence products. Amends [405 IAC 5-37-3](#) to add additional licensed practitioners who may prescribe tobacco cessation services reimbursable under the Medicaid program. Effective 30 days after filing with the Publisher.

[405 IAC 5-37-0.5](#); [405 IAC 5-37-1](#); [405 IAC 5-37-2](#); [405 IAC 5-37-3](#)

SECTION 1. [405 IAC 5-37-0.5](#) IS ADDED TO READ AS FOLLOWS:

**Rule 37. Tobacco Dependence Treatment Policy**

**[405 IAC 5-37-0.5](#) Definitions**

Authority: [IC 12-15-1-10](#); [IC 12-15-21-2](#); [IC 12-15-21-3](#)

Affected: [IC 12-15](#)

**Sec. 0.5. The following definitions apply throughout this rule:**

(1) "Tobacco dependence treatment" means the provision of products and services intended to reduce a person's dependence on tobacco products. The term includes the provision of the following:

(A) Covered legend or nonlegend drugs intended to reduce an individual's dependence on tobacco products.

(B) Tobacco dependence counseling services offered in conjunction with the delivery of a drug defined in clause (A) or by an individual identified under section 3 of this rule.

(2) "Tobacco products" means, but is not limited to, the following:

(A) Cigarettes.

(B) Pipes.

(C) Cigars.

(D) Inhaled tobacco products.

(E) Ingestible tobacco products.

(F) Chewing tobacco.

*(Office of the Secretary of Family and Social Services; [405 IAC 5-37-0.5](#); filed May 27, 2016, 12:05 p.m.: [20160622-IR-405140338FRA](#))*

SECTION 2. [405 IAC 5-37-1](#) IS AMENDED TO READ AS FOLLOWS:

**[405 IAC 5-37-1](#) Reimbursement and prior authorization**

Authority: [IC 12-15-1-10](#); [IC 12-15-21-2](#); [IC 12-15-21-3](#)

Affected: [IC 12-15](#)

Sec. 1. (a) Reimbursement is available for ~~smoking cessation~~ **tobacco dependence** treatment subject to the requirements set forth in this rule and when provided in accordance with provider bulletins, provider manuals, and the provider agreement.

~~(b) Reimbursement is available for one (1) twelve (12) week course of smoking cessation treatment per recipient per calendar year.~~

~~(c) The twelve (12) week course of treatment may include prescription of any combination of smoking cessation products and counseling. One (1) or more modalities of treatment may be prescribed. Counseling must be included in any combination of treatment.~~

~~(d) Prior authorization is not required for smoking cessation products or counseling.~~

**(b) Tobacco dependence products may be subject to prior authorization as defined in [405 IAC 5-2-20](#). A provider seeking prior authorization shall follow the process outlined in [405 IAC 5-3](#).**

*(Office of the Secretary of Family and Social Services; [405 IAC 5-37-1](#); filed Sep 27, 1999, 8:55 a.m.: 23 IR 324; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#); readopted filed Oct 28, 2013, 3:18 p.m.: [20131127-IR-405130241RFA](#); filed May 27, 2016, 12:05 p.m.: [20160622-IR-405140338FRA](#))*

SECTION 3. [405 IAC 5-37-2](#) IS AMENDED TO READ AS FOLLOWS:

**[405 IAC 5-37-2](#) Tobacco dependence products**

**Authority:** [IC 12-15-1-10](#); [IC 12-15-21-2](#); [IC 12-15-21-3](#)

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

Sec. 2. (a) Reimbursement is available to pharmacy providers for ~~smoking cessation~~ **tobacco dependence** products when prescribed by a practitioner within the scope of his **or her** license under Indiana law.

~~(b) Products covered under this section include, but are not limited to, the following:~~

- ~~(1) Sustained release bupropion products.~~
- ~~(2) Nicotine replacement drug products (patch, gum, inhaler).~~

**(b) In order for a pharmacy provider to receive reimbursement under this section for tobacco dependence products, the tobacco dependence product must be covered by Indiana Medicaid in accordance with [405 IAC 5-24-3](#) or [405 IAC 5-24-5](#).**

**(c) A member prescribed a legend or nonlegend drug intended to reduce an individual's *[sic]* dependence on tobacco products must engage in tobacco dependence counseling in conjunction with the receipt of said legend or nonlegend drug therapy.**

*(Office of the Secretary of Family and Social Services; [405 IAC 5-37-2](#); filed Sep 27, 1999, 8:55 a.m.: 23 IR 324; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#); readopted filed Oct 28, 2013, 3:18 p.m.: [20131127-IR-405130241RFA](#); filed May 27, 2016, 12:05 p.m.: [20160622-IR-405140338FRA](#))*

SECTION 4. [405 IAC 5-37-3](#) IS AMENDED TO READ AS FOLLOWS:

**[405 IAC 5-37-3](#) Tobacco dependence counseling**

**Authority:** [IC 12-15-1-10](#); [IC 12-15-21-2](#); [IC 12-15-21-3](#)

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

Sec. 3. (a) Reimbursement is available for ~~smoking cessation~~ **tobacco dependence** counseling services rendered by licensed practitioners under applicable Indiana law participating in the Indiana Medicaid program and listed in subsection ~~(b)~~ **(c)**.

**(b) A prescription for tobacco dependence products serves as documentation that the prescribing practitioner has prescribed or obtained assurance from the patient that counseling occurs corresponding to the receipt of tobacco dependence products.**

~~(b)~~ **(c)** The following may provide ~~smoking cessation~~ **tobacco dependence** counseling services when prescribed by a practitioner within the scope of his **or her** license under Indiana law and within the limitations of this rule:

- (1) A physician.
- (2) A physician's assistant.

- (3) A nurse practitioner.
- (4) A registered nurse.
- (5) A psychologist.
- (6) A pharmacist.
- (7) A dentist.
- (8) An optometrist**
- (9) A clinical social worker.**
- (10) A marital and family counselor.**
- (11) A mental health counselor.**
- (12) A licensed clinical addictions counselor.**

(Office of the Secretary of Family and Social Services; [405 IAC 5-37-3](#); filed Sep 27, 1999, 8:55 a.m.: 23 IR 324; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 3, 2001, 9:47 a.m.: 25 IR 380; readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#); readopted filed Oct 28, 2013, 3:18 p.m.: [20131127-IR-405130241RFA](#); filed May 27, 2016, 12:05 p.m.: [20160622-IR-405140338FRA](#))

LSA Document #14-338(F)

Notice of Intent: [20140820-IR-405140338NIA](#)

One Year Requirement (IC 4-22-2-25): [20150415-IR-405140338ARA](#)

Proposed Rule: [20160203-IR-405140338PRA](#)

Hearing Held: February 25, 2016

Approved by Attorney General: May 15, 2016

Approved by Governor: May 25, 2016

Filed with Publisher: May 27, 2016, 12:05 p.m.

Documents Incorporated by Reference: None Received by Publisher

Small Business Regulatory Coordinator: Emily Hancock, Indiana Family and Social Services Administration, Office of Medicaid Policy and Planning, Indiana Government Center South, 402 West Washington Street, Room W374, Indianapolis, IN 46204, (317) 233-0097, [emily.hancock@fssa.in.gov](mailto:emily.hancock@fssa.in.gov)

Posted: 06/22/2016 by Legislative Services Agency

An [html](#) version of this document.