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**TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES**

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**Final Rule**

LSA Document #17-306(F)

**DIGEST**

Amends [405 IAC 1-10.5-4](#) and [405 IAC 5-34-3](#) to make conforming changes to new providers and out-of-state providers. Amends [405 IAC 5-5-1](#) and [405 IAC 5-5-2](#) to allow the office of the secretary of family and social services to designate out-of-state providers as in-state for the purposes of reimbursement and prior authorization requirements. Establishes requirements for such a designation to be made by the office. Effective 30 days after filing with the Publisher.

[405 IAC 1-10.5-4](#); [405 IAC 5-5-1](#); [405 IAC 5-5-2](#); [405 IAC 5-34-3](#)

SECTION 1. [405 IAC 1-10.5-4](#) IS AMENDED TO READ AS FOLLOWS:

**[405 IAC 1-10.5-4](#) Reimbursement for new providers and out-of-state providers**

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

**Affected:** [IC 12-15-15-1](#)

Sec. 4. (a) The purpose of this section is to establish payment rates for inpatient hospital facilities that commenced participation in the state Medicaid program after fiscal year 1990 and for out-of-state hospital providers participating in the Indiana Medicaid program.

(b) Payment for inpatient stays reimbursed according to the DRG methodology shall be equal to the sum of the DRG rate, the capital rate calculated using the statewide median capital rate, the medical education rate, and, if applicable, the outlier payment calculated using the statewide median cost-to-charge ratio.

(c) Payment for inpatient stays reimbursed as level-of-care cases shall be equal to the sum of the per diem rate for each Medicaid day, the capital rate calculated using the statewide median capital rate, and the medical education rate.

(d) Outlier payments for inpatient stays reimbursed under subsection (b) shall be determined according to the methodology described in section 3 of this rule. Each out-of-state hospital that submits a Medicaid hospital cost report will receive a cost-to-charge ratio. All other out-of-state facilities must use the statewide median cost-to-charge ratio to determine applicable cost outlier payments.

(e) To be eligible for a facility-specific per diem medical education rate, out-of-state providers must be located in a city listed in ~~[405 IAC 5-5-2\(a\)\(3\)](#)~~ and ~~[405 IAC 5-5-2\(a\)\(4\)](#)~~ **an area designated in-state pursuant to [405 IAC 5-5](#)** or have a minimum of sixty (60) Medicaid inpatient days. Providers must submit annually a Medicaid hospital cost report to be eligible for this reimbursement. The facility-specific per diem medical education rate for an out-of-state provider shall not exceed the highest in-state medical education per diem rate.

(f) To be considered for a separate base amount for children's hospitals, out-of-state children's hospitals must be located in a city listed in ~~[405 IAC 5-5-2\(a\)\(3\)](#)~~ and ~~[405 IAC 5-5-2\(a\)\(4\)](#)~~ **an area designated in-state pursuant to [405 IAC 5-5](#)** or have a minimum of sixty (60) Medicaid inpatient days. Providers must submit annually a Medicaid hospital cost report to be eligible for a separate base amount.

*(Office of the Secretary of Family and Social Services; [405 IAC 1-10.5-4](#); filed Oct 5, 1994, 11:10 a.m.: 18 IR 246; filed Dec 19, 1995, 3:00 p.m.: 19 IR 1084; filed Dec 27, 1996, 12:00 p.m.: 20 IR 1517; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Aug 31, 2001, 9:53 a.m.: 25 IR 59; 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 Nov 8, 2013, 2:56 p.m.: [20131204-IR-405130422FRA](#); filed Aug 1, 2016, 3:44 p.m.: [20160831-IR-405150418FRA](#); filed Apr 19, 2018, 11:29 a.m.: [20180516-IR-405170306FRA](#))*

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

**405 IAC 5-5-1 Out-of-state services; general**

**Authority:** IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2; IC 12-15-21-3

**Affected:** IC 12-15; IC 12-17.6

Sec. 1. **(a)** Medicaid reimbursement is available for the following services provided outside Indiana **as determined by the office and subject to the restrictions outlined in this rule.**

- (1) Acute general hospital care.
- (2) Physician services.
- (3) Dental services.
- (4) Pharmacy services.
- (5) Transportation services.
- (6) Therapy services.
- (7) Podiatry services.
- (8) Chiropractic services.
- (9) Durable medical equipment and supplies.
- (10) Hospice services, subject to the conditions in 405 IAC 5-34-3.
- (11) Diagnostic services, including genetic testing.

**(b)** Areas may be designated by the office as in-state in relation to prior authorization requirements and for the purposes of reimbursement under any of the following circumstances:

- (1) To increase access to medically necessary services in areas where the distance to an in-state facility would subject the member, or member's family, to significant financial hardship or create an unnecessary significant burden on the Medicaid member.
- (2) To allow members to retain a primary medical provider or obtain specialty services from a facility, such as centers of excellence, when the care may not be available from an in-state provider or would require significant hardship due to geographic location.
- (3) Transportation to an appropriate Indiana facility would cause significant undue expense or hardship to the member or the office.
- (4) To address an emergency health crisis.

**(c)** Areas designated by the office as in-state pursuant to this section are not subject to the hospital assessment fees at 405 IAC 1-8-5 and 405 IAC 1-10.5-7.

*(Office of the Secretary of Family and Social Services; 405 IAC 5-5-1; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3308; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2379; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Feb 3, 2006, 2:00 p.m.: 29 IR 1904; 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 Apr 19, 2018, 11:29 a.m.: 20180516-IR-405170306FRA)*

SECTION 3. 405 IAC 5-5-2 IS AMENDED TO READ AS FOLLOWS:

**405 IAC 5-5-2 Prior authorization requirements for out-of-state services**

**Authority:** IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2; IC 12-15-21-3

**Affected:** IC 12-15; IC 12-17.6

Sec. 2. (a) The Services listed in section 1 of this rule **provided out-of-state** require prior authorization except as follows:

- (1) Emergency services provided out-of-state are exempt from prior authorization; however, continuation of inpatient treatment and hospitalization is subject to the prior authorization requirements of ~~Indiana~~ **the office**.
- (2) Members of the adoption assistance program placed outside of Indiana will receive approval for all routine medical and dental care provided out-of-state.
- (3) ~~Recipients may obtain services listed in section 1 of this rule in the following designated out-of-state cities subject to the prior authorization requirements for in-state services set out in this article:~~
  - (A) ~~Louisville, Kentucky.~~
  - (B) ~~Cincinnati, Ohio.~~
  - (C) ~~Harrison, Ohio.~~
  - (D) ~~Hamilton, Ohio.~~
  - (E) ~~Oxford, Ohio.~~

~~(F) Sturgis, Michigan.~~

~~(G) Watseka, Illinois.~~

~~(H) Danville, Illinois.~~

~~(I) Owensboro, Kentucky.~~

~~(4) Recipients may obtain services in Chicago, Illinois, subject to all of the following conditions:~~

~~(A) The recipient's physician determines the service is medically necessary.~~

~~(B) Transportation to an appropriate Indiana facility would cause undue hardship to the patient or the patient's family.~~

~~(C) The service is not available in the immediate area.~~

~~(D) The recipient's physician complies with all of the criteria set forth in this article, in accordance with the state plan and 42 CFR 456.3.~~

~~(b) Prior authorization will not be approved for the following services outside of Indiana: and are not covered outside of Indiana for designated cities listed in subsection (a)(3) through (a)(4):~~

~~(1) Nursing facilities, ICFs/IID, or home health agency services.~~

~~(2) Any other type of long term care facility, including facilities directly associated with or part of an acute general hospital.~~

~~(c) Prior authorization may be granted for any time period from one (1) day to one (1) year for out-of-state medical services listed in section 4 of this rule if the service is medically necessary and any one (1) of the following criteria is also met:~~

~~(1) The service is not available in Indiana. However, care provided by out-of-state Veterans Administration and Shrine hospitals facilities is an exception to this requirement.~~

~~(2) The member has received services from the provider previously.~~

~~(3) Transportation to an appropriate Indiana facility would cause undue expense or hardship to the member or Medicaid.~~

~~(4) The out-of-state provider is a regional treatment center or distributor.~~

~~(5) The out-of-state provider is significantly less expensive than the Indiana providers. for example, large laboratories versus an individual pathologist.~~

*(Office of the Secretary of Family and Social Services; [405 IAC 5-5-2](#); filed Jul 25, 1997, 4:00 p.m.: 20 IR 3308; filed Sep 27, 1999, 8:55 a.m.: 23 IR 309; 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 Aug 1, 2016, 3:44 p.m.: [20160831-IR-405150418FRA](#); errata filed Nov 1, 2016, 9:36 a.m.: [20161109-IR-405160493ACA](#); filed Apr 19, 2018, 11:29 a.m.: [20180516-IR-405170306FRA](#))*

SECTION 4. [405 IAC 5-34-3](#) IS AMENDED TO READ AS FOLLOWS:

#### **[405 IAC 5-34-3](#) Out-of-state providers**

**Authority:** [IC 12-15-1-10](#); [IC 12-15-21-2](#); [IC 12-15-40](#)

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

Sec. 3. (a) Subject to the conditions in this section and section 2 of this rule, and any applicable state or federal licensing laws or regulations, an Indiana resident may receive hospice services from an out-of-state hospice provider if the provider is:

(1) located in a designated out-of-state city listed in [405 IAC 5-5-2\(a\)](#); **area pursuant to [405 IAC 5-5-1](#)**; and

(2) enrolled in Medicaid.

(b) Prior authorization may be granted for an Indiana resident to receive hospice services from an out-of-state hospice provider not located in a designated out-of-state city if any one (1) of the criteria listed at [405 IAC 5-5-2\(c\)](#) is met.

(c) Routine home care and continuous home care hospice services may be provided by out-of-state hospice providers to Indiana residents in their own home or in a nursing facility located in Indiana.

(d) Inpatient respite care and general inpatient care hospice services may be provided in an out-of-state hospice provider's facility.

(e) Routine home care and continuous home care hospice services cannot be provided to an Indiana resident in a nursing facility outside of Indiana. even if the nursing facility is located in an out-of-state designated city listed in [405 IAC 5-5-2\(a\)](#).

(Office of the Secretary of Family and Social Services; [405 IAC 5-34-3](#); filed Mar 9, 1998, 9:30 a.m.: 21 IR 2380; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 5, 2003, 8:30 a.m.: 26 IR 3636; 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 Aug 1, 2016, 3:44 p.m.: [20160831-IR-405150418FRA](#); filed Apr 19, 2018, 11:29 a.m.: [20180516-IR-405170306FRA](#))

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