TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Final Rule
LSA Document #18-269(F)

DIGEST

Amends 405 IAC 1-4.2-1 to update the term Medicaid recipient to read Medicaid member. Amends 405 IAC 1-4.2-2 to remove definitions of terms relating to the completion of home health agency (HHA) cost reports. Amends 405 IAC 1-4.2-3 to remove the requirement that HHA services be provided in the home. Amends 405 IAC 1-4.2-4 to describe how HHA providers are to be paid for a HHA visit and remove references to the methodology of using HHA cost reports to establish reimbursement rates. Amends 405 IAC 1-4.2-5 to remove the requirement for rates to be adjusted annually. Amends 405 IAC 1-4.2-6 to remove cost reporting requirements for telehealth services. Repeals 405 IAC 1-4.2-3.1. Effective 30 days after filing with the Publisher.

405 IAC 1-4.2-1; 405 IAC 1-4.2-2; 405 IAC 1-4.2-3; 405 IAC 1-4.2-3.1; 405 IAC 1-4.2-4; 405 IAC 1-4.2-5; 405 IAC 1-4.2-6

SECTION 1. 405 IAC 1-4.2-1 IS AMENDED TO READ AS FOLLOWS:

Rule 4.2. Home Health Services

405 IAC 1-4.2-1 Policy; scope

Authority: IC 12-15-21-1; IC 12-15-21-3
Affected: IC 12-15-13-2

Sec. 1. (a) This rule provides general information regarding the criteria for providing home health services to Medicaid members and sets forth the criteria for reimbursement for services rendered to Medicaid members by home health agencies. The information and procedures contained in this rule apply to home health agencies. Continued participation in Medicaid and payment for services are contingent upon maintenance of state licensure and compliance with the Medicaid provider agreement.

(b) In accordance with federal law, reimbursement for home health services will be consistent with efficiency, economy, and quality of care and sufficient to enlist enough providers so that care and services are available to Medicaid ~~recipients~~ **members** at least to the extent that such care and services are available to the general population in the geographic area.

(Office of the Secretary of Family and Social Services; 405 IAC 1-4.2-1; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3375; filed Oct 8, 1998, 12:23 p.m.: 22 IR 433; 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 Oct 6, 2016, 2:59 p.m.: 20161019-IR-405160452ACA; filed Dec 21, 2018, 3:11 p.m.: 20190116-IR-405180269FRA)

SECTION 2. 405 IAC 1-4.2-2 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-4.2-2 Definitions

Authority: IC 12-15-5-11; IC 12-15-21
Affected: IC 12-15-13-2; IC 12-15-34-1

Sec. 2. The following definitions in this section apply throughout this rule:
(1) "HHA" means a home health agency as defined in IC 12-15-34-1 that is licensed by ISDH to provide home health services and is enrolled as a provider.
(2) "Home health care" means health care provided to Medicaid members in the member's place of residence as follows:
(A) A place of residence for home health services does not include a hospital, nursing facility, or intermediate care facility for individuals with intellectual disabilities.
(B) Nothing in this subdivision should be read to prohibit a member from receiving home health services in any setting in which normal life activities take place, other than a hospital, nursing facility, intermediate care

facility for individuals with intellectual disabilities, or any setting in which payment is or could be made under Medicaid for inpatient services that include room and board. Home health services cannot be limited to services furnished to members who are homebound.

~~(3) "Hours worked" means the number of total hours paid for HHA personnel, less the number of hours paid for vacation, holiday, and sick pay.~~

~~(4) "Overhead cost rate" means the flat, statewide rate for all allowable costs not reimbursed through the staffing rate.~~

~~(5) "Semivariable cost" means that portion of the overhead cost that is reallocated from the overhead cost to the staffing cost. It consists of the following:~~

~~(A) Direct supervision.~~

~~(B) Routine medical supplies.~~

~~(C) Transportation.~~

~~(D) Any other semivariable expenses that must be covered by Medicaid under federal law.~~

~~(6) "Staffing cost rate" means the service-specific wage and benefit rate paid per billable hour and based upon standard personnel-related costs that are a function of staff time spent in the performance of patient care activities.~~

~~(7)~~ **(3)** "Telehealth services" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, and information across a distance.

(Office of the Secretary of Family and Social Services; 405 IAC 1-4.2-2; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3375; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1116; filed Oct 8, 1998, 12:23 p.m.: 22 IR 433; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 18, 2007, 11:38 a.m.: 20070718-IR-405070031FRA; 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 Sep 19, 2014, 3:22 p.m.: 20141015-IR-405140194FRA; filed Aug 1, 2016, 3:44 p.m.: 20160831-IR-405150418FRA; errata filed Oct 6, 2016, 2:59 p.m.: 20161019-IR-405160452ACA; filed Mar 27, 2018, 2:52 p.m.: 20180425-IR-405170342FRA; filed Dec 21, 2018, 3:11 p.m.: 20190116-IR-405180269FRA)

SECTION 3. 405 IAC 1-4.2-3 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-4.2-3 Home health care services; general information

Authority: IC 12-15-5-11; IC 12-15-21
Affected: IC 12-15-13-2

Sec. 3. (a) Medicaid will reimburse HHAs for the following home health services:

(1) Skilled nursing performed by a registered nurse or licensed practical nurse.
(2) Home health aide services.
(3) Physical and occupational therapies.
(4) Speech pathology services.
(5) Renal dialysis.
(6) Telehealth services.

The services in this subsection must be ~~performed in the home and~~ provided within the limitations set forth in 405 IAC 5-16.

(b) Except as provided in subsection (c), all home health services require prior authorization by submitting a properly completed written request to the office. Prior authorization procedures for home health care are set forth in 405 IAC 5-16-3 and 405 IAC 5-16-3.1.

(c) Prior authorization may be obtained by telephone under the circumstances and subject to the limitations set forth in 405 IAC 5-3-2(b)(3). Services ordered in writing by a physician prior to the patient's discharge from a hospital within the limitations set forth in 405 IAC 5-3-12(2) do not need prior authorization.

(Office of the Secretary of Family and Social Services; 405 IAC 1-4.2-3; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3376; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 18, 2007, 11:38 a.m.: 20070718-IR-405070031FRA; 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 Sep 19, 2014, 3:22 p.m.: 20141015-IR-405140194FRA; filed Aug 1, 2016, 3:44 p.m.: 20160831-IR-405150418FRA; errata filed Oct 6, 2016, 2:59 p.m.: 20161019-IR-405160452ACA; filed Dec 21, 2018, 3:11 p.m.: 20190116-IR-405180269FRA)

SECTION 4. 405 IAC 1-4.2-4 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-4.2-4 Home health care services; reimbursement methodology

Authority: IC 12-15
Affected: IC 12-15-13-2; IC 12-15-22-1

Sec. 4. (a) HHAs will be reimbursed for covered services provided to Medicaid members through standard, statewide rates ~~computed~~ as:

(1) one (1) overhead ~~cost~~ rate per HHA **visit,** per member, per day; plus

(2) the staffing ~~cost~~ rate multiplied by the number of ~~hours~~ **billing units** spent in the performance of billable patient care activities;

to equal the total reimbursement per visit.

~~(b) The overhead cost rate is a flat, statewide rate based on ninety-five percent (95%) of the statewide median overhead cost per visit. The statewide median overhead cost per visit is derived in the following manner:~~

~~(1) Determine for each HHA total patient-related costs submitted by HHAs on forms prescribed by the office, less direct staffing and benefit costs, divided by the total number of HHA visits during the Medicaid reporting period for that HHA. The result of this calculation is an overhead cost per visit for each HHA.~~

~~(2) Array all HHAs in the state in accordance with their overhead cost per visit, from the highest to the lowest cost.~~

~~(3) The statewide median overhead cost per visit is the cost of the agency at the point in the overhead cost array at which one-half (1/2) of the overhead cost observations are from higher-cost agencies and one-half (1/2) are from lower-cost agencies.~~

~~(c) The staffing cost rate is a flat, statewide rate based on ninety-five percent (95%) of the statewide median direct staffing and benefit costs per hour for each of the following disciplines:~~

~~(1) Registered nurse.~~
~~(2) Licensed practical nurse.~~
~~(3) Home health aide.~~
~~(4) Physical therapist.~~
~~(5) Occupational therapist.~~
~~(6) Speech pathologist.~~

~~(d) The statewide median direct staffing and benefit costs per hour is derived in the following manner:~~

~~(1) Determine for each HHA total patient-related direct staffing and benefit costs submitted by HHAs on forms prescribed by the office, divided by the total number of HHA hours worked during the Medicaid reporting period for that provider for each discipline. The result of this calculation is a staffing cost rate per hour for each HHA and discipline.~~

~~(2) Array all HHAs in the state in accordance with their staffing cost rate per hour for each discipline, from the highest to the lowest.~~

~~(3) The statewide median staffing cost rate per hour for each discipline is the cost of the agency at the point in the staffing cost array in which one-half (1/2) of the cost observations are from agencies with higher staffing rates per hour and one-half (1/2) are from agencies with lower staffing rates per hour.~~

~~(e) All HHAs must keep track of and make available for audit total hours paid and hours paid relating to vacation, holiday, and sick pay for all HHA personnel.~~

~~(f) Medicare-certified HHAs are required to submit a Medicaid cost report on forms prescribed by the office and the most recently filed Medicare cost report. Non-Medicare-certified HHAs are required to submit a Medicaid cost report on forms prescribed by the office and the latest fiscal year-end financial statements.~~

~~(g) Rate setting shall be prospective, based on the provider's initial or annual cost report for the most recent completed period. In determining prospective allowable costs, each HHA's cost from the most recent completed year will be adjusted for inflation using the Center for Medicare & Medicaid Services Home Health Agency Market Basket index as published quarterly by Global Insight. The inflation adjustment shall apply from the midpoint of the initial or annual cost report period to the midpoint of the next expected rate period.~~

~~(h) The semivariable cost will be removed from the overhead cost calculated in accordance with subsection (b) and added to the staffing cost calculated in accordance with subsection (c), based on hours worked.~~

~~(i) Field audits will be conducted yearly on a selected number of HHAs. Any audit adjustments shall be incorporated into the calculation of agency costs to be included in the rate arrays.~~

~~(j) Financial and statistical documentation may be requested by the office. This documentation may include, but is not limited to, the following:~~
~~(1) Medicaid cost reports.~~
~~(2) Medicare cost reports.~~
~~(3) Statistical data.~~
~~(4) Financial statements.~~
~~(5) Other supporting documents deemed necessary by the office.~~
~~Failure to submit requested documentation within thirty (30) days of the date of the request may result in the imposition of the sanctions described in section 3.1(c) and 3.1(d) of this rule and sanctions set forth in IC 12-15-22-1.~~

~~(k)~~ **(b)** Retroactive repayment will be required when any of the following occur:
(1) A field audit identifies overpayment by Medicaid.
(2) The HHA knowingly receives overpayment of a Medicaid claim from the office. In this event, the HHA must:
(A) complete appropriate Medicaid billing adjustment forms; and
(B) reimburse the office for the amount of the overpayment.

~~(l)~~ *[Voided by P.L.217-2017, SECTION 79, effective April 27, 2017.]*

(Office of the Secretary of Family and Social Services; 405 IAC 1-4.2-4; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3376; errata filed Sep 24, 1996, 3:20 p.m.: 20 IR 332; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1117; filed Oct 8, 1998, 12:23 p.m.: 22 IR 434; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 18, 2007, 11:38 a.m.: 20070718-IR-405070031FRA; 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 Apr 29, 2015, 3:38 p.m.: 20150527-IR-405150034FRA; filed Aug 1, 2016, 3:44 p.m.: 20160831-IR-405150418FRA; errata filed Oct 6, 2016, 2:59 p.m.: 20161019-IR-405160452ACA; filed May 23, 2017, 1:43 p.m.: 20170621-IR-405170130FRA; filed Dec 21, 2018, 3:11 p.m.: 20190116-IR-405180269FRA) NOTE: 405 IAC 1-4.2-4(l) was voided by P.L.217-2017, SECTION 79, effective April 27, 2017.

SECTION 5. 405 IAC 1-4.2-5 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-4.2-5 Home health care services reimbursement rates

Authority: IC 12-15-21-1; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-15-13-2; IC 12-15-22-1; IC 12-15-34-14.5

Sec. 5. ~~New rates set on July 1, 2008, shall be:~~
~~(1) effective on July 1; and~~
~~(2) annually adjusted thereafter based upon the most recently submitted financial and statistical documentation as filed by all HHAs who billed Medicaid for services provided during the cost report period.~~

(a) The staffing and overhead billing units for HHA services are as follows:

Home Health Service	Billing Unit
Overhead	**One unit per provider per member per day**
Registered Nurse (RN)	**Hourly**
Licensed Practical Nurse (LPN)	**Hourly**
Home Health Aide	**Hourly**
Physical Therapist	**15-minute increments**
Occupational Therapist	**15-minute increments**
Speech Pathologist	**15-minute increments**

(b) For dates of service on or after July 1, 2018, Medicaid reimbursement shall be at the rates effective July 1, 2018.

(c) All fee schedules are available through the agency's website at www.indianamedicaid.com. Except as otherwise noted, state-developed fee schedule rates are the same for both governmental and private providers of home health care.

(Office of the Secretary of Family and Social Services; 405 IAC 1-4.2-5; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3377; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1119; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 18, 2007, 11:38 a.m.: 20070718-IR-405070031FRA; readopted filed Sep 19, 2007, 12:16 p.m.: 20071010-IR-405070311RFA; readopted filed Oct 28, 2013, 3:18 p.m.: 20131127-IR-405130241RFA; errata filed Oct 6, 2016, 2:59 p.m.: 20161019-IR-405160452ACA; filed Dec 21, 2018, 3:11 p.m.: 20190116-IR-405180269FRA)

SECTION 6. 405 IAC 1-4.2-6 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-4.2-6 Telehealth services

Authority: IC 12-15-5-11; IC 12-15-21
Affected: IC 12-15-13-2; IC 12-15-22-1

Sec. 6. (a) Approved telehealth services are reimbursed separately from other home health services. The unit of reimbursement for telehealth services provided by an HHA is one (1) calendar day.

(b) Reimbursement is available for telehealth services as follows:
(1) One-time amount per client of fourteen dollars and forty-five cents ($14.45) related to an initial face-to-face visit necessary to train the member to appropriately operate the telehealth equipment.
(2) One (1) payment of nine dollars and eighty-four cents ($9.84) for each day the telehealth equipment is used by a registered nurse (RN) to monitor and manage the client's care in accordance with the written order from a physician.

(c) Rates for telehealth services shall not be adjusted annually.

~~(d) All equipment and software cost associated with the telehealth services must be separately identified on the HHA's annual cost report so that it may be removed from the calculation of overhead costs.~~

(Office of the Secretary of Family and Social Services; 405 IAC 1-4.2-6; filed Sep 19, 2014, 3:22 p.m.: 20141015-IR-405140194FRA; filed Aug 1, 2016, 3:44 p.m.: 20160831-IR-405150418FRA; errata filed Oct 6, 2016, 2:59 p.m.: 20161019-IR-405160452ACA; filed Dec 21, 2018, 3:11 p.m.: 20190116-IR-405180269FRA)

SECTION 7. 405 IAC 1-4.2-3.1 IS REPEALED.

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