
TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #23-367**DIGEST**

Amends [405 IAC 5-20-5](#) and [405 IAC 5-24-8](#) to clarify the validity of electronically written notes and signatures in compliance with [IC 26-2-8-106](#). Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)[405 IAC 5-20-5](#); [405 IAC 5-24-8](#)

SECTION 1. [405 IAC 5-20-5](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 5-20-5](#) Certification of need for admission

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

Affected: [IC 12-13-7-3](#); [IC 12-15](#); [IC 26-2-8-106](#)

Sec. 5. Medicaid reimbursement is available for services in an inpatient psychiatric facility only when the member's need for admission has been certified. The certification of need must be completed as follows:

- (1) By the attending physician or staff physician for a member between twenty-two (22) and sixty-five (65) years of age in a psychiatric hospital of sixteen (16) beds or less and for a member sixty-five (65) years of age and over.
- (2) In accordance with 42 CFR 441.152(a), effective October 1, 1995 (not including secondary Code of Federal Regulations citations therein), and 42 CFR 441.153, effective October 1, 1995 (not including tertiary Code of Federal Regulations citations resulting therefrom), for an individual twenty-one (21) years of age and under.
- (3) By telephone precertification review prior to admission for an individual who is a member of Medicaid when admitted to the facility as a nonemergency admission, to be followed by a written certification of need within ten (10) working days of admission.
- (4) By telephone precertification review within forty-eight (48) hours of an emergency admission, not including Saturdays, Sundays, and legal holidays, to be followed by a written certification of need within fourteen (14) working days of admission. If the provider fails to call within forty-eight (48) hours of an emergency admission, not including Saturdays, Sundays, and legal holidays, Medicaid reimbursement shall be denied for the period from admission to the actual date of notification.
- (5) In ~~writing~~ **handwriting or electronically, consistent with [IC 26-2-8-106](#)**, within ten (10) working days after receiving notification of an eligibility determination for an individual applying for Medicaid while in the facility and covering the entire period for which Medicaid reimbursement is being sought.
- (6) In ~~writing~~ **handwriting or electronically, consistent with [IC 26-2-8-106](#)**, at least every sixty (60) days after admission, or as requested by the office to recertify that the member continues to require inpatient psychiatric hospital services.

(Office of the Secretary of Family and Social Services; [405 IAC 5-20-5](#); filed Jul 25, 1997, 4:00 p.m.: 20 IR 3335; 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-405150418RFA](#); readopted filed Jul 28, 2022, 2:21 p.m.: [20220824-IR-405220205RFA](#))

SECTION 2. [405 IAC 5-24-8](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 5-24-8](#) Prior authorization; brand name drugs

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

Affected: [IC 12-13-7-3](#); [IC 12-15](#)

Sec. 8. (a) Prior authorization is required for a brand name drug that:

- (1) is subject to generic substitution under Indiana law; and
- (2) the prescriber has indicated is "brand medically necessary", either orally or in writing on the prescription or

drug order, **or typed in the comments of an electronic prescription.**

(b) In order for prior authorization to be granted for a brand name drug, ~~in such instances,~~ the prescriber must:

- (1) indicate on the prescription or drug order, in the prescriber's own handwriting **or electronically typed in the comments of an electronic prescription**, the phrase "brand medically necessary"; and
- (2) seek prior authorization by substantiating the brand name drug is medically necessary as opposed to the less costly generic equivalent.

The prior authorization number assigned to the approved request must be included on the prescription or drug order issued by the prescriber or relayed to the dispensing pharmacist by the prescriber if the prescription is orally transmitted. The office may exempt specific drugs or classes of drugs from the prior authorization requirement, based on cost or therapeutic considerations. Prior authorization will be determined in accordance with the provisions of [405 IAC 5-3](#) and 42 U.S.C. 1396r-8(d)(5).

(Office of the Secretary of Family and Social Services; [405 IAC 5-24-8](#); filed Jul 25, 1997, 4:00 p.m.: 20 IR 3346; filed Sep 27, 1999, 8:55 a.m.: 23 IR 319; 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](#); errata filed Nov 1, 2016, 9:36 a.m.: [20161109-IR-405160493ACA](#); readopted filed Jul 28, 2022, 2:21 p.m.: [20220824-IR-405220205RFA](#))

[Notice of Public Hearing](#)

[Notice of Intent was published in the manner set forth in [IC 4-22-2](#), before its amendment July 1, 2023]

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