

# ARTICLE 12. APPLICANTS AND MEMBERS; ELIGIBILITY AND ENROLLMENT; APPEAL PROCEDURES

## Rule 1. General Requirements; Eligibility

### 405 IAC 12-1-1 Application process

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-3-5

Sec. 1. (a) An application for CHIP shall be filed on the form prescribed by the family and social services administration.

(b) An application shall be made:

(1) at a local office in the county where the applicant resides;

(2) at an enrollment center that has entered into an agreement with the division to complete initial intake processing of Hoosier Healthwise applications; or

(3) by mail to the division.

(c) An application for CHIP may be filed on behalf of an applicant by any of the following:

(1) The applicant's parent, guardian, or caretaker.

(2) The applicant, if the applicant is either:

(A) eighteen (18) years of age and not living with a parent, guardian, or caretaker; or

(B) married and living with his or her spouse.

(d) The applicant may use an authorized representative to apply for CHIP. The authorization must be in writing and signed by a person authorized to file an application under subsection (c).

(e) The applicant, the applicant's parent or guardian, or the authorized representative must be interviewed by the local office or an enrollment center.

(f) An employee of an enrollment center who accepts an application or conducts an interview in conjunction with an application may not act as authorized representative for that applicant. (*Office of the Secretary of Family and Social Services; 405 IAC 12-1-1; filed May 3, 2000, 2:02 p.m.: 23 IR 2231; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA*) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-1-1) to the Office of the Secretary of Family and Social Services (405 IAC 12-1-1) by P.L.35-2016, SECTION 53, effective March 21, 2016.

### 405 IAC 12-1-2 Date of application

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-3-5

Sec. 2. For purposes of determining the effective date of coverage, the date of application is the date on which the signed application is received by the division or the enrollment center. (*Office of the Secretary of Family and Social Services; 405 IAC 12-1-2; filed May 3, 2000, 2:02 p.m.: 23 IR 2231; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA*) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-1-2) to the Office of the Secretary of Family and Social Services (405 IAC 12-1-2) by P.L.35-2016, SECTION 53, effective March 21, 2016.

### 405 IAC 12-1-3 Date of coverage

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-3-5

Sec. 3. CHIP reimbursement for covered services is available beginning on the first day of the month of application if both of the following requirements are met:

(1) The applicant is determined eligible for CHIP.

(2) The applicable premium has been paid.

*(Office of the Secretary of Family and Social Services; 405 IAC 12-1-3; filed May 3, 2000, 2:02 p.m.: 23 IR 2231; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-1-3) to the Office of the Secretary of Family and Social Services (405 IAC 12-1-3) by P.L.35-2016, SECTION 53, effective March 21, 2016.*

## **Rule 2. Eligibility Requirements**

### **405 IAC 12-2-1 Age**

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-3-2

Sec. 1. To be eligible to enroll in the program, an applicant must be less than nineteen (19) years of age. *(Office of the Secretary of Family and Social Services; 405 IAC 12-2-1; filed May 3, 2000, 2:02 p.m.: 23 IR 2232; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-2-1) to the Office of the Secretary of Family and Social Services (405 IAC 12-2-1) by P.L.35-2016, SECTION 53, effective March 21, 2016.*

### **405 IAC 12-2-2 Income**

Authority: IC 12-17.6-2-11

Affected: IC 12-15-2-14; IC 12-17.6-3-2

Sec. 2. (a) To be eligible to enroll in the program, an applicant must be a member of a family with an annual income of:

- (1) more than one hundred fifty percent (150%); and
- (2) not more than two hundred fifty percent (250%);

of the federal income poverty level.

(b) All income of the following individuals is considered in determining the individual's eligibility, except for the exclusions listed in subsection (d):

(1) The applicant or member.

(2) The applicant's or member's parents living in the home with the applicant or member unless the applicant or member is married.

(3) The applicant's or member's spouse.

(c) The amount of countable income shall be computed according to 405 IAC 2-5-1.

(d) Any income that would be excluded under the Medicaid program for a child under nineteen (19) years of age described in IC 12-15-2-14 is excluded in determining eligibility for the program. For families that have an income greater than two hundred percent (200%) of the federal income poverty level, regular income disregards shall not be allowed in determining countable income. *(Office of the Secretary of Family and Social Services; 405 IAC 12-2-2; filed May 3, 2000, 2:02 p.m.: 23 IR 2232; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; filed Dec 15, 2008, 11:27 a.m.: 20090114-IR-407080533FRA; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-2-2) to the Office of the Secretary of Family and Social Services (405 IAC 12-2-2) by P.L.35-2016, SECTION 53, effective March 21, 2016.*

### **405 IAC 12-2-3 Agreement to pay cost sharing**

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-3-2

Sec. 3. (a) As a condition of eligibility for CHIP, at least one (1) of the following individuals must agree to pay the cost-sharing required by the office under this title:

- (1) The parent, guardian, or caretaker of an applicant.
- (2) The applicant, if the applicant is either:
  - (A) eighteen (18) years of age and not living with a parent, guardian, or caretaker; or
  - (B) married and living with his or her spouse.

(b) If the individual who agrees to pay cost-sharing for an applicant under this section has failed to pay the required premiums due for any member at any time, the individual must pay all premiums due before an applicant for whom that individual has cost-sharing responsibility may enroll in the program. An applicant living with an individual who has not failed to pay any past due premiums may be enrolled even though his or her prior parent, guardian, or caretaker failed to pay. (*Office of the Secretary of Family and Social Services; 405 IAC 12-2-3; filed May 3, 2000, 2:02 p.m.: 23 IR 2232; errata filed Aug 2, 2000, 3:21 p.m.: 23 IR 3091; filed Nov 23, 2005, 11:30 a.m.: 29 IR 1213; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA*) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-2-3) to the Office of the Secretary of Family and Social Services (405 IAC 12-2-3) by P.L.35-2016, SECTION 53, effective March 21, 2016.

#### **405 IAC 12-2-4 Waiting periods for certain members**

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-4-4

Sec. 4. (a) Except as provided in subsection (b), an individual who was covered under a group health plan or under health insurance coverage as such terms are defined in 42 U.S.C. §300gg-91 is ineligible for CHIP for three (3) months from the effective date of termination of that coverage.

(b) This section does not apply if the individual's coverage under a group health plan or other health insurance coverage was terminated involuntarily, including, but not limited to, loss of coverage for the following reasons:

- (1) The employer of the individual, parent, guardian, or other family member terminated the health plan coverage.
- (2) The individual, parent, guardian, or other family member is no longer eligible for the plan due to termination of employment or a reduction in working hours.
- (3) The individual is no longer covered under the plan due to the death or divorce of the parent, guardian, or other family member.
- (4) The individual has reached the lifetime limit of benefits under the plan.

(*Office of the Secretary of Family and Social Services; 405 IAC 12-2-4; filed May 3, 2000, 2:02 p.m.: 23 IR 2232; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA*) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-2-4) to the Office of the Secretary of Family and Social Services (405 IAC 12-2-4) by P.L.35-2016, SECTION 53, effective March 21, 2016.

#### **405 IAC 12-2-5 Eligibility**

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-3-3

Sec. 5. (a) Subject to subsection (b), an individual who is eligible for CHIP shall remain covered under the program until the earlier of the following:

- (1) The child becomes financially ineligible.
- (2) The end of the month in which child becomes nineteen (19) years of age.
- (b) Subsection (a) applies only if the individual:
  - (1) and the individual's parent, guardian, or caretaker comply with enrollment requirements, including, but not limited to, paying required premiums; and
  - (2) does not become ineligible under section 6(a) of this rule.

(*Office of the Secretary of Family and Social Services; 405 IAC 12-2-5; filed May 3, 2000, 2:02 p.m.: 23 IR 2232; filed Aug 7, 2002, 9:41 a.m.: 25 IR 4103; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; readopted filed Jun 18, 2012, 11:23 a.m.:*

20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-2-5) to the Office of the Secretary of Family and Social Services (405 IAC 12-2-5) by P.L.35-2016, SECTION 53, effective March 21, 2016.

#### **405 IAC 12-2-6 Ineligibility**

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-3-2

Sec. 6. (a) Notwithstanding any other provision of this article, an individual is not eligible for CHIP if any of the following apply:

- (1) The individual is eligible for Medicaid, except for an individual who is subject to a spenddown under 405 IAC 2-3-10. An individual who is eligible for Medicaid with a spenddown may be eligible for CHIP if all other CHIP eligibility requirements are met.
- (2) The individual is covered under a group health plan or under health insurance coverage as such terms are defined in 42 U.S.C. §300gg-91.
- (3) The individual is eligible for health benefits coverage under a state health benefits plan on the basis of a family member's employment with a public agency in the state.
- (4) The individual is an inmate of a public institution as defined in 42 CFR 435.1009.
- (5) The individual is not a resident of Indiana.
- (6) The individual is an undocumented alien.

(b) If any of the conditions in subsection (a) apply to a member, the member or the member's parent, guardian, or authorized representative must report the change to the local office.

(c) An individual who is a patient in an institution for mental diseases at the time of application or redetermination is not eligible for the program. A member who has been determined eligible under the program and becomes a patient in an institution for mental diseases after eligibility determination may remain eligible for covered services under the program until the end of the one (1) year period in section 5 of this rule if the individual:

- (1) and the individual's parent or guardian comply with enrollment requirements, including, but not limited to, paying required premiums; and
- (2) does not become ineligible under subsection (a).

IMD services are not covered under CHIP. However, the individual remains eligible for services that are covered. (*Office of the Secretary of Family and Social Services; 405 IAC 12-2-6; filed May 3, 2000, 2:02 p.m.: 23 IR 2233; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA*) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-2-6) to the Office of the Secretary of Family and Social Services (405 IAC 12-2-6) by P.L.35-2016, SECTION 53, effective March 21, 2016.

### **Rule 3. Premiums**

#### **405 IAC 12-3-1 Responsibility for premium payment**

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-3-2; IC 12-17.6-4-3

Sec. 1. (a) In order for an individual to receive benefits under CHIP, the individual's family must pay the monthly premium established by the office in accordance with 42 U.S.C. 1397cc. The rates, approved by the Centers for Medicare & Medicaid Services, are set forth in Section 8 of the CHIP State Plan.

(b) Premiums must be paid monthly. Partial month payments will not be accepted. (*Office of the Secretary of Family and Social Services; 405 IAC 12-3-1; filed May 3, 2000, 2:02 p.m.: 23 IR 2233; filed Aug 7, 2002, 9:41 a.m.: 25 IR 4103; errata filed Sep 26, 2002, 11:42 a.m.: 26 IR 383; filed Nov 23, 2005, 11:30 a.m.: 29 IR 1213; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; filed Dec 15, 2008, 11:27 a.m.: 20090114-IR-407080533FRA; filed Jun 1, 2011, 2:28 p.m.: 20110629-IR-*

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#### **405 IAC 12-3-2 Nonpayment of premium**

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-3-2; IC 12-17.6-4-3

Sec. 2. (a) When an applicant is determined eligible for CHIP, the applicant will be conditionally approved for CHIP pending payment of the premium. Coverage begins when the first premium is received by the office or its designated contractor. After the premium is received, coverage will be retroactive to the first day of the month of application.

(b) The parent or guardian must pay the first premium in order for the applicant to receive coverage under CHIP. If payment is not received by the due date specified in the second premium notice, the CHIP application will be denied.

(c) If any premium after the first premium is not paid by the due date, a maximum of sixty (60) days coverage without premium payment will be permitted before coverage is discontinued. When a member has been discontinued from the program due to non-payment of premiums, the family may reapply, but must pay all past due premiums and the premium for the current month in order to begin coverage. The member is not required to pay premiums for the time period between the date of discontinuance and the date that coverage resumes. Any services received by the member during the time period between the date of discontinuance and the date that coverage resumes are not covered by CHIP.

(d) A payment of less than the full amount due will not be accepted and will be considered nonpayment. (*Office of the Secretary of Family and Social Services; 405 IAC 12-3-2; filed May 3, 2000, 2:02 p.m.: 23 IR 2233; filed Aug 7, 2002, 9:41 a.m.: 25 IR 4103; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA*) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-3-2) to the Office of the Secretary of Family and Social Services (405 IAC 12-3-2) by P.L.35-2016, SECTION 53, effective March 21, 2016.

#### **405 IAC 12-3-3 Maximum total annual aggregate cost-sharing**

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-4-3

Sec. 3. (a) The total annual aggregate cost-sharing for a family may not exceed five percent (5%) of the family's income for the twelve (12) month period beginning on the date that the child's eligibility is determined. As used in this section, "total aggregate cost-sharing" means premiums and copayments paid by the member or the member's parent or guardian. For purposes of this section, the family's income includes the income considered in 407 IAC 2-2-2 [405 IAC 12-2-2].

(b) The member's family is responsible for informing the local office when the total aggregate cost-sharing for the family has reached five percent (5%) of the family's income and for maintaining documentation to substantiate the amount of cost-sharing paid by the family. When the member provides the local office with documentary verification that the total aggregate cost-sharing for a family has reached five percent (5%) of the family's income for the twelve (12) month period:

(1) the member's parent or guardian will not be required to pay any premiums for the remainder of the twelve (12) month period; and

(2) the office will refund any copayments paid during the remainder of the twelve (12) month period.

(*Office of the Secretary of Family and Social Services; 405 IAC 12-3-3; filed May 3, 2000, 2:02 p.m.: 23 IR 2234; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA*) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-3-3) to the Office of the Secretary of Family and Social Services (405 IAC 12-3-3) by P.L.35-2016, SECTION 53, effective March 21, 2016.

### **Rule 4. Appeals and Hearings**

**405 IAC 12-4-1 Appeals by applicants and members of CHIP**

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-8

Sec. 1. (a) In the event that the rights, duties, obligations, privileges, or other legal relations of any person or entity are required or authorized by law to be determined by the office of CHIP or any local office of family and children, then such person or entity may request an administrative hearing under this rule.

(b) Appeals by CHIP members and applicants are governed by the procedures and time limits for Medicaid applicants and recipients set out in 405 IAC 1.1. (*Office of the Secretary of Family and Social Services; 405 IAC 12-4-1; filed May 3, 2000, 2:02 p.m.: 23 IR 2234; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA*) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-4-1) to the Office of the Secretary of Family and Social Services (405 IAC 12-4-1) by P.L.35-2016, SECTION 53, effective March 21, 2016.

**405 IAC 12-4-2 Members of managed care organizations**

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-8; IC 27-13-10

Sec. 2. A member complaining of an action of an MCO must exhaust the MCO's internal grievance procedure prior to requesting a hearing by the office. (*Office of the Secretary of Family and Social Services; 405 IAC 12-4-2; filed May 3, 2000, 2:02 p.m.: 23 IR 2234; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; filed Jun 1, 2011, 2:28 p.m.: 20110629-IR-407100420FRA; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA*) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-4-2) to the Office of the Secretary of Family and Social Services (405 IAC 12-4-2) by P.L.35-2016, SECTION 53, effective March 21, 2016.

**405 IAC 12-4-3 Maintaining services**

Authority: IC 12-17.6-2-11

Affected: IC 12-17.6-8

Sec. 3. (a) Except as provided in subsection (c), if a member requests a hearing prior to the effective date of a notice of discontinuance of coverage, the member may elect to continue CHIP coverage until the administrative law judge issues a decision after the hearing pursuant to 405 IAC 1.1-1-6. The member's parent or guardian must continue to pay premiums in order to continue coverage.

(b) If the office's action is sustained by the administrative law judge, the member or the member's parent or guardian is responsible for repaying the cost of any services furnished by reason of this section, minus any premiums paid for coverage during the pendency of the appeal.

(c) If the member is notified that coverage is to be discontinued due to nonpayment of the premium, CHIP coverage will not be maintained after the effective date of the discontinuance. (*Office of the Secretary of Family and Social Services; 405 IAC 12-4-3; filed May 3, 2000, 2:02 p.m.: 23 IR 2234; readopted filed May 22, 2006, 3:22 p.m.: 29 IR 3424; readopted filed Jun 18, 2012, 11:23 a.m.: 20120718-IR-407120202RFA; readopted filed Apr 9, 2018, 9:12 a.m.: 20180509-IR-405180110RFA*) NOTE: Transferred from the Office of the Children's Health Insurance Program (407 IAC 2-4-3) to the Office of the Secretary of Family and Social Services (405 IAC 12-4-3) by P.L.35-2016, SECTION 53, effective March 21, 2016.

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