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

LSA Document #02-49

To: Senator Luke Kenley, Chairperson
c/o Ms. Susan Kennell
The Administrative Rules Oversight Committee

From: Maureen Bartolo, Staff Attorney
Office of General Counsel
Family and Social Services Administration

Re: LSA #02-49, Amendments to the Medicaid Chiropractic Rule

Date: October 24, 2002

cc: Susan Kennell, LSA
Howard Stevenson, General Counsel, FSSA
Melanie Bella, Assistant Secretary, OMPP

On behalf of the Family and Social Services Administration, Office of Medicaid Policy and Planning, I am submitting this memo to the Administrative Rules Oversight Committee in compliance with IC 4-22-2-25, because the agency has determined that the promulgation of the captioned rule may not be completed within one year after publication of the notice of intent to adopt a rule.

The agency published its notice of intent to adopt a rule for the captioned document on March 1, 2002 (25 IR 1927). Its proposed rule was published on May 1, 2002 (25 IR 2555). A public hearing was held on June 3, 2002. Due to the input we received during the comment period, further research and discussion with affected provider associations was necessary. In order to complete the research and properly consider additional input, the agency needs additional time.

Any rule adopted by the agency must be approved by the Family and Social Services Committee (see IC 12-8-3), a committee that meets only once per month. It is possible a monthly meeting could occur without a quorum and therefore without any action being taken on an adopted rule. This would mean delayed approval until the next monthly meeting of the committee and presence of a quorum. Following approval by the FSSA committee, the rule must be submitted to the Attorney General's office. Pursuant to IC 4-22-2-32, the Attorney General has forty-five days to complete his review of a rule. Whether a quorum is present at a monthly meeting of the FSSA Committee and the Attorney General's time frame for rule review are outside of the agency's control. For these reasons, it may not be possible for the rule to be approved by the governor within one year of the date of publication of the notice of intent. The agency expects that the rule can be approved by the governor by September 1, 2003.

This notice setting forth the expected date of approval of LSA# 02-49 as September 1, 2003, is being submitted in a timely manner. November 6, 2002 is the two hundred fiftieth day after publication of the notice of intent to adopt a rule.