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

**Proposed Rule**  
LSA Document #03-206

**DIGEST**

Amends 405 IAC 5-24-7 to revise copayment structure for drugs reimbursed by Medicaid and specify that all covered drugs dispensed will be subject to a three dollar copayment. Effective 30 days after filing with the secretary of state.

**405 IAC 5-24-7**

SECTION 1. 405 IAC 5-24-7, AS AMENDED AT 26 IR 732, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**405 IAC 5-24-7 Copayment for legend and nonlegend drugs**

**Authority:** IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2

**Affected:** IC 12-13-7-3; IC 12-15-6

Sec. 7. (a) Under IC 12-15-6, a copayment is required for legend and nonlegend drugs and insulin in accordance with the following:

- (1) The copayment shall be paid by the recipient and collected by the provider at the time the service is rendered. Medicaid reimbursement to the provider shall be adjusted to reflect the copayment amount for which the recipient is liable.
- (2) In accordance with 42 CFR 447.15, the provider may not deny services to any eligible individual on account of the individual's inability to pay the copayment amount. Under 42 CFR 447.15, this service guarantee does not apply to an individual who is able to pay, nor does an individual's inability to pay eliminate his or her liability for the copayment.
- (3) The amount of the copayment will be as follows:
  - (A) ~~Fifty cents (\$0.50) for each generic legend drug dispensed.~~
  - (B) ~~Fifty cents (\$0.50) for each nonlegend drug dispensed, whether brand name or generic.~~
  - (C) three dollars (\$3) for each ~~brand name legend~~ **covered** drug dispensed.
  - (D) ~~Fifty cents (\$0.50) for each compounded prescription, whether legend or nonlegend.~~

The pharmacy provider shall collect a copayment for each drug dispensed by the provider and covered by Medicaid.

(b) The following pharmacy services are exempt from the copayment requirement:

- (1) Emergency services provided in a hospital, clinic, office, or other facility equipped to furnish emergency care.
- (2) Services furnished to individuals less than eighteen (18) years of age.
- (3) Services furnished to pregnant women if such services are related to the pregnancy or any other medical condition that may complicate the pregnancy.
- (4) Services furnished to individuals who are inpatients in hospitals, nursing facilities, intermediate care facilities for the mentally retarded, or other medical institutions.
- (5) Family planning services and supplies furnished to individuals of child bearing age.
- (6) Health maintenance organization (HMO) pharmacy services.

*(Office of the Secretary of Family and Social Services; 405 IAC 5-24-7; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3346; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Nov 4, 2002, 12:16 p.m.: 26 IR 732)*

***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on October 28, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Room B, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed amendments to revise the copayment structure for drugs reimbursed by Medicaid. Written comments may be directed to MS-27 Office of General Counsel, Attention: Maureen Bartolo, 402 West Washington Street, Room W451, Indianapolis, Indiana, 46204. Correspondence should be identified in the following manner: "COMMENTS RE: PROPOSED RULE AMENDMENT FOR MEDICAID DRUG COPAYMENTS LSA 03-206.". Written comments received will be made available for public display at the above listed address of the Office of General Counsel. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Pat Rios  
Secretary  
Office of the Secretary of Family and Social Services