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**TITLE 460 DIVISION OF DISABILITY, AGING, AND
REHABILITATIVE SERVICES**

Proposed Rule
LSA Document #04-199

DIGEST

Amends 460 IAC 1-8-3 to add to the list of those who are precluded from providing attendant care services. Adds 460 IAC 1-8-11 through 460 IAC 1-8-13 regarding the hire of a fiscal agent by an individual in need of self-directed in-home care who has hired a personal services attendant, including duties, methods of payment for a personal services attendant and fiscal agent, and record keeping requirements. Effective 30 days after filing with the secretary of state.

460 IAC 1-8-3 **460 IAC 1-8-12**
460 IAC 1-8-11 **460 IAC 1-8-13**

SECTION 1. 460 IAC 1-8-3 IS AMENDED TO READ AS FOLLOWS:

460 IAC 1-8-3 Attendant care service provider registration requirement; preclusion

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19

Affected: IC 12-10-10; IC 12-10-17; IC 12-15

Sec. 3. (a) An individual desiring to provide attendant care services must register with the division.

(b) An individual may not provide attendant care services for compensation from Medicaid or the community and home options to institutional care for the elderly and disabled program for an individual in need of self-directed in-home care services unless the individual seeking to provide attendant care services is registered with the division.

(c) An individual who is a ~~legally responsible relative~~ **legal guardian** of an individual in need of self-directed in-home care, including a parent of a minor individual and a spouse, is precluded from providing attendant care services for that individual for compensation under this section.

(d) An individual may not provide personal attendant services for compensation from Medicaid or the community and home options to institutional care for the elderly and disabled program if they have been convicted of a crime or offense involving abuse, neglect, or exploitation of an individual. (Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-3; filed Oct 2, 2002, 9:13 a.m.: 26 IR 351)

SECTION 2. 460 IAC 1-8-11 IS ADDED TO READ AS FOLLOWS:

460 IAC 1-8-11 Method of payment to a personal services attendant

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-15

Affected: IC 12-10-10; IC 12-10-17

Sec. 11. (a) For purposes of this rule, “fiscal agent” means an entity that is utilized by the person in need of self-directed in-home care to handle the payroll responsibilities related to the agreement between the person in need of self-directed in-home care and the personal services attendant.

(b) An individual in need of self-directed in-home care who has hired a personal services attendant who is registered with the division shall utilize a fiscal agent that must be authorized by the division of disability, aging, and rehabilitative services.

(c) The fiscal agent shall provide payroll and bookkeeping services following federal, state, and local regulations, including, but not limited to, the following:

(1) Assisting the individual in completing and submitting applications for the following:

(A) State and federal employment tax identification numbers.

(B) Unemployment insurance.

(C) Worker's compensation insurance.

(2) Processing the following:

(A) Payroll, including income tax withholdings.

(B) Social Security deductions under the Federal Insurance Contributions Act (FICA).

(C) Worker's compensation.

(D) Wages.

(3) Disbursing checks to the personal services attendant.

(4) Preparing employer tax forms, including W-4 forms.

(5) Supplying appropriate paperwork to be used by the individual in need of self-directed in-home care to document and monitor time worked by the personal services attendant.

(d) Payroll records must certify the following:

(1) The personal services attendant worked the hours as recorded.

(2) The individual in need of self-directed in-home services received the services as recorded and the services were within the limits of the authorized care plan.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-11)

SECTION 3. 460 IAC 1-8-12 IS ADDED TO READ AS FOLLOWS:

460 IAC 1-8-12 Method of payment to a fiscal agent

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-15

Affected: IC 12-10-17; IC 12-10-10

Sec. 12. The fiscal agent shall be paid in accordance with the terms of the agreement with the division. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-12)*

SECTION 4. 460 IAC 1-8-13 IS ADDED TO READ AS FOLLOWS:

460 IAC 1-8-13 Record keeping requirements

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-15

Affected: IC 12-10-17; IC 12-10-10

Sec. 13. The fiscal agent shall maintain records for personal attendant services in accordance with the terms of the agreement with the division. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-13)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 22, 2004 at 11:15 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W451 Conference Room A, Indianapolis, Indiana the Division of Disability, Aging, and Rehabilitative Services will hold a public hearing on a proposed amendment of 460 IAC 1-8 concerning a list of those who are precluded from providing attendant care services and new sections regarding the hire of a fiscal agent by an individual in need of self-directed in-home care who has hired a personal services attendant, including duties, methods of payment for a personal services attendant and fiscal agent, and record keeping requirements. If an accommodation is required to allow an individual with a disability to participate in this meeting, please contact Kevin Wild at (317) 233-2582 at least 48 hours prior to the meeting. 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.

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General Counsel
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