

### **IC 12-15-1.3**

#### **Chapter 1.3. Medicaid Waivers and Plan Amendments**

### **IC 12-15-1.3-1**

#### **Waivers to implement intent of P.L.46-1995; expiration of section**

Sec. 1. (a) The terms and conditions of any waivers that are obtained by the state from the United States Department of Health and Human Services or the United States Department of Agriculture before January 1, 1995:

- (1) are valid;
- (2) comply with the legislative intent of P.L.46-1995;
- (3) need not be resubmitted for approval; and
- (4) may be implemented until the terms and conditions of any waivers requested under P.L.46-1995 are received and affidavits are filed with the governor's office and the budget committee attesting that the necessary waiver requests have been approved.

(b) The office of the secretary and the office of Medicaid policy and planning shall:

- (1) provide the greatest effort possible to secure all federal waivers required under P.L.46-1995; and
- (2) reapply for waivers required under P.L.46-1995 but denied by:

- (A) the Secretary of the United States Department of Health and Human Services;
- (B) the Secretary of the United States Department of Agriculture; or
- (C) both the officials described in clauses (A) and (B).

(c) This section expires on the date that all waivers requested under P.L.46-1995 have been obtained.

*As added by P.L.220-2011, SEC.264.*

### **IC 12-15-1.3-2**

#### **Application of waivers under P.L.46-1995 to certain persons; expiration of section**

Sec. 2. (a) Any part of P.L.46-1995 that requires a waiver from the United States Department of Health and Human Services or the United States Department of Agriculture does not apply to a person who first received assistance under IC 12-14 before January 1, 1994.

(b) This section expires on the later of the following:

- (1) January 1, 1996.
- (2) Ninety (90) days after the date that all waivers required to implement P.L.46-1995 have been approved.

*As added by P.L.220-2011, SEC.264.*

### **IC 12-15-1.3-3**

#### **Application of waivers under P.L.46-1995 to certain persons; expiration of section**

Sec. 3. (a) Any part of P.L.46-1995 that requires a waiver from the United States Department of Health and Human Services or the

United States Department of Agriculture does not apply to a person who first received assistance under IC 12-14 after December 31, 1993.

(b) This section expires on the later of the following:

(1) January 1, 1997.

(2) Fifteen (15) months after the date that all waivers required to implement P.L.46-1995 have been approved.

*As added by P.L.220-2011, SEC.264.*

#### **IC 12-15-1.3-4**

##### **Waivers to implement P.L.257-1997**

Sec. 4. The division of family resources shall seek any available waivers from the Secretary of the United States Department of Health and Human Services that are required to carry out P.L.257-1997.

*As added by P.L.220-2011, SEC.264.*

#### **IC 12-15-1.3-5**

##### **Amendment of state Medicaid plan to include buy-in program for working individuals with disabilities; application for waivers; expiration of section**

Sec. 5. (a) The office shall amend the Medicaid state plan to include the buy-in program for working individuals with disabilities established under IC 12-15-41.

(b) The office shall apply to the Federal Centers for Medicare and Medicaid Services (formerly the Health Care Financing Administration) for a grant established under Section 203 of the federal Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170, 42 U.S.C. 1320b-22) to support the design, establishment, and operation of infrastructures that ensure the provision of items and services to support working individuals with disabilities, including the following:

(1) Data collection.

(2) Evaluation.

(3) Quality assurance.

(4) Changes in management information systems.

(5) Training of administrators, local county caseworkers, and service providers on Medicaid work incentives and the relationship of Social Security to work incentives.

(6) Outreach campaigns regarding the existence of infrastructures to support work incentives for working individuals with disabilities.

The office shall make the application required under this subsection for the first grant available after July 1, 2001.

(c) The office shall submit an application to the Federal Centers for Medicare and Medicaid Services (formerly the Health Care Financing Administration) for each available new or renewal grant described in subsection (b).

(d) This section expires December 31, 2011.

*As added by P.L.220-2011, SEC.264.*

### **IC 12-15-1.3-6**

#### **Waiver application for prescription drug program for low income senior citizens; conditions; changes to program approved by prescription drug advisory committee; limitation of state expenditures; implementation of waiver**

Sec. 6. (a) The office shall develop a federal Medicaid waiver application under which a prescription drug program may be established or implemented to provide access to prescription drugs for low income senior citizens.

(b) Before the office may submit an application for a federal Medicaid waiver that will affect the Indiana prescription drug program established under IC 12-10-16, the following must occur:

- (1) The office shall submit the proposed Medicaid waiver to the prescription drug advisory committee.
- (2) The prescription drug advisory committee must review, allow public comment on, and approve the proposed Medicaid waiver.

(c) A prescription drug program established or implemented by the office or a contractor of the office under this section may not limit access to prescription drugs for prescription drug program recipients, except under the following circumstances:

- (1) Access may be limited to the extent that restrictions were in place in the Medicaid program on March 26, 2002.
- (2) Except as provided by IC 12-15-35.5-3(b) and IC 12-15-35.5-3(c), access may be limited to:
  - (A) prevent:
    - (i) fraud;
    - (ii) abuse;
    - (iii) waste;
    - (iv) overutilization of prescription drugs; and
    - (v) inappropriate utilization of prescription drugs; or
  - (B) implement a disease management program.

IC 12-15-35.5-7 applies to a limit implemented under this subdivision.

(d) Changes to a prescription drug program that:

- (1) is established or implemented by the office or a contractor of the office under this section; and
- (2) uses money from the Indiana prescription drug account established under IC 4-12-8-2;

must be approved by the prescription drug advisory committee.

(e) The office shall apply to the United States Department of Health and Human Services for approval of any waiver necessary under the federal Medicaid program to provide access to prescription drugs for low income senior citizens.

(f) A Medicaid waiver developed under this section must limit a prescription drug program's state expenditures to funding appropriated to the Indiana prescription drug account established under IC 4-12-8-2 from the Indiana tobacco master settlement agreement fund.

(g) The office may not implement a waiver under this section until

the office files an affidavit with the governor attesting that the federal waiver applied for under this section is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(h) If the office receives a waiver under this section from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (g), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

*As added by P.L.220-2011, SEC.264.*

### **IC 12-15-1.3-7**

#### **Waiver for disregard of parental income for Medicaid eligibility to provide coverage of mental health services for certain special needs adopted child; implementation of waiver; rules; expiration of section**

Sec. 7. (a) As used in this section, "special needs adopted child" means a child who:

- (1) has been adopted by an individual; and
- (2) has been diagnosed with a mental illness, including an emotional or behavioral condition, by a psychologist licensed under IC 25-33 or a psychiatrist licensed under IC 25-22.5.

(b) As used in this section, "waiver" refers to a Medicaid waiver allowed under the federal Social Security Act.

(c) The office shall apply to the United States Department of Health and Human Services for a waiver to allow the office to disregard parental income for Medicaid eligibility purposes if the parental income:

- (1) is three hundred fifty percent (350%) or less of the federal income poverty level and the individual is otherwise ineligible for Medicaid; or
- (2) exceeds three hundred fifty percent (350%) and is less than one thousand one percent (1,001%) of the federal income poverty level and the office adopts a cost participation plan for these individuals;

and provide coverage of mental health services for a special needs adopted child who is less than nineteen (19) years of age.

(d) The office may not implement the waiver until the office files an affidavit with the governor attesting that the federal waiver applied for under this section is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(e) If the office receives a waiver applied for under subsection (c) and the governor receives the affidavit filed under subsection (d), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

(f) The office may adopt rules under IC 4-22-2 necessary to implement this section.

(g) This section expires December 31, 2012.

*As added by P.L.220-2011, SEC.264.*

### **IC 12-15-1.3-8**

#### **Waiver to amend state Medicaid plan for limitation of dental services; implementation of waiver; rules; expiration of section**

Sec. 8. (a) The office shall apply to the United States Department of Health and Human Services to amend the state Medicaid plan concerning limiting dental services to provide that a Medicaid recipient who is at least twenty-one (21) years of age is eligible only for the following dental services without prior authorization under the Medicaid program:

- (1) Diagnostic and preventative care.
- (2) Direct restorations.
- (3) Treatment of lesions.
- (4) Extractions.
- (5) Periodontal treatment for the following immunocompromised individuals:
  - (A) Transplant patients.
  - (B) Pregnant women.
  - (C) Diabetic patients.
- (6) Emergency and trauma care.

The office may authorize other dental services not listed in this subsection for a Medicaid recipient if the recipient first obtains prior authorization from the office for the dental service.

(b) The office may not implement the amendment until the office files an affidavit with the governor attesting that the amendment applied for under this section is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that an amendment is approved.

(c) If the office receives approval for an amendment under this section from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (b), the office shall implement the amendment not more than thirty (30) days after the governor receives the affidavit.

(d) The office may adopt rules under IC 4-22-2 necessary to implement this section.

(e) This section expires December 31, 2012.

*As added by P.L.220-2011, SEC.264.*

### **IC 12-15-1.3-9**

#### **Application for waiver to amend state Medicaid plan for recipient participation in pay-in option; implementation of waiver; rules; expiration of section**

Sec. 9. (a) As used in this section, "pay-in option" refers to the method allowed under 42 U.S.C. 1396b under which a Medicaid recipient may satisfy a state's income spend down requirements by paying to the state the spend down amount each month.

(b) The office may apply to the United States Department of Health and Human Services to amend the state's Medicaid plan to allow a Medicaid recipient to elect to participate in the pay-in option in the state's Medicaid spend down program allowed under 42 U.S.C. 1396b.

(c) The office may not implement the amendment described in subsection (b) until the office files an affidavit with the governor attesting that the amendment applied for under this section is in effect. If the office applies for the amendment described in this section, the office shall file the affidavit under this subsection not later than five (5) days after the office is notified by the United States Department of Health and Human Services that the amendment is approved.

(d) If the office receives approval for the amendment under this section and the governor receives the affidavit filed under subsection (c), the office may implement the amendment.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this section.

(f) This section expires December 31, 2013.

*As added by P.L.220-2011, SEC.264.*

#### **IC 12-15-1.3-10**

##### **Waiver for amendment to state Medicaid plan for reimbursement of costs of collection of cord blood; implementation of waiver; rules; expiration of section**

Sec. 10. (a) The office shall apply to the United States Department of Health and Human Services for the necessary amendment to the state Medicaid plan or for a waiver to authorize the office to reimburse a health care provider under Medicaid for the collection of cord blood by the health care provider from a pregnant Medicaid recipient upon the birth of a newborn.

(b) The office may not implement the state plan amendment or waiver described in subsection (a) until the office files an affidavit with the governor attesting that the amendment or waiver applied for under this section has been approved and is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the amendment or the waiver is approved.

(c) If the office receives federal approval for the amendment or waiver described in this section and the governor receives the affidavit filed under subsection (b), the office shall implement the amendment or waiver not more than sixty (60) days after the governor receives the affidavit. Any cost to the state resulting from the implementation of the amendment or the waiver must be paid from appropriations made to the office of the secretary or other private funds made available to the office.

(d) The office may adopt rules under IC 4-22-2 necessary to implement this section.

(e) This section expires July 1, 2013.

*As added by P.L.220-2011, SEC.264.*

#### **IC 12-15-1.3-11**

##### **Demonstration project for health care management program; study impact of implementation; consultations; application for waiver; implementation of waiver; rules; reports; expiration of**

**section**

Sec. 11. (a) As used in this section, "program" refers to the health care management program established under subsection (c).

(b) As used in this section, "recipient" means a Medicaid recipient under this article.

(c) The office may work with one (1) or more health care providers to establish and implement a demonstration project for a health care management program under which the health care providers provide health care services to recipients. If a demonstration project is established and implemented, the program must allow the office to do the following:

(1) Offer to recipients who currently receive health care services from the health care providers the opportunity to continue to receive Medicaid services provided solely by the health care providers as part of the demonstration project. The offer must be extended to a number of recipients that is sufficiently large to result in a percentage of recipients accepting the offer to provide meaningful data to guide the establishment and implementation of the program under subdivision (2). A recipient is not required to participate in the demonstration project.

(2) Establish and implement a program of health care management modeled on the United States Department of Veterans Affairs Quality Enhancement Research Initiative, including use of payment incentives for:

(A) individual health care providers; and

(B) administrators;

of the health care providers with which the office works under this section to reward the achievement of objectives established for the program.

(d) The office and the health care providers described in subsection (c) shall study the impact of implementing the program under subsection (c)(2), including the impact the program has on the:

(1) quality; and

(2) cost;

of health care provided to recipients.

(e) The office shall consult with the Regenstrief Institute for Health Care or a comparable institution in developing, implementing, and studying the program.

(f) The office shall apply to the United States Department of Health and Human Services for any amendment to the state Medicaid plan or demonstration waiver that is needed to implement this section. A health care provider described in subsection (c) shall assist the office in requesting the amendment or demonstration waiver and, if the amendment or waiver is approved, establishing and implementing the amendment or waiver.

(g) The office may not implement the amendment or waiver until the office files an affidavit with the governor attesting that the amendment or waiver applied for under this section is in effect. The office shall file the affidavit under this subsection not more than five

(5) days after the office is notified that the amendment or waiver is approved.

(h) If the office receives approval for the amendment or waiver under this section from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (g), the office shall implement the amendment or waiver not more than sixty (60) days after the governor receives the affidavit.

(i) The office may adopt rules under IC 4-22-2 to implement this section.

(j) The office shall, before July 1 of each year, report to the legislative council in an electronic format under IC 5-14-6 concerning a demonstration project established and implemented under this section.

(k) This section expires January 1, 2013.

*As added by P.L.220-2011, SEC.264.*

#### **IC 12-15-1.3-12**

##### **Waiver for amendment to state Medicaid plan to amend upper payment limit program, disproportionate share hospital program; implementation of waiver; rules; expiration of section**

Sec. 12. (a) The office shall apply to the United States Department of Health and Human Services for approval of an amendment to the state's Medicaid plan that is necessary to do the following:

(1) Amend the state's upper payment limit program.

(2) Make changes to the state's disproportionate share hospital program.

(b) The office may not implement an approved amendment to the state plan until the office files an affidavit with the governor attesting that the state plan amendment applied for under subsection (a)(1) or (a)(2) is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the state plan amendment is approved.

(c) The office may adopt rules under IC 4-22-2 necessary to implement this section.

(d) This section expires December 31, 2013.

*As added by P.L.220-2011, SEC.264.*

#### **IC 12-15-1.3-13**

##### **Application for waiver to provide presumptive eligibility for certain pregnant women; implementation of waiver; rules**

Sec. 13. (a) The office shall apply to the United States Department of Health and Human Services for any amendment to the state Medicaid plan or demonstration waiver that is needed to provide for presumptive eligibility for a pregnant woman described in IC 12-15-2-13.

(b) The office may not implement the amendment or waiver until the office files an affidavit with the governor attesting that the amendment or waiver applied for under this section is in effect. The office shall file the affidavit under this subsection not more than five

(5) days after the office is notified that the amendment or waiver is approved.

(c) If the office receives approval for the amendment or waiver under this section from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (b), the office shall implement the amendment or waiver not more than sixty (60) days after the governor receives the affidavit.

(d) The office may adopt rules under IC 4-22-2 to implement this section.

*As added by P.L.220-2011, SEC.264.*

#### **IC 12-15-1.3-14**

##### **Application for waiver for approval of Section 1115 demonstration waiver to implement certain health insurance coverage; funding program; implementation of waiver; rules; expiration of section**

Sec. 14. (a) The office shall apply to the United States Department of Health and Human Services for approval of a Section 1115 demonstration waiver or a Medicaid state plan amendment to develop and implement the following:

(1) Health insurance coverage program to cover individuals who meet the following requirements:

(A) The individual is at least eighteen (18) years of age and less than sixty-five (65) years of age.

(B) The individual is a United States citizen and has been a resident of Indiana for at least twelve (12) months.

(C) The individual has an annual household income of not more than two hundred percent (200%) of the federal income poverty level.

(D) The individual is not eligible for health insurance coverage through the individual's employer.

(E) The individual has been without health insurance coverage for at least six (6) months or is without health insurance coverage because of a change in employment.

(2) A premium assistance program described in IC 12-15-44.2-20.

(b) The office shall include in the waiver application or state plan amendment a request to fund the program in part by using:

(1) enhanced federal financial participation; and

(2) hospital care for the indigent dollars, upper payment limit dollars, or disproportionate share hospital dollars.

(c) The office may not implement the waiver or state plan amendment until the office:

(1) files an affidavit with the governor attesting that the federal waiver or amendment applied for under this section is in effect; and

(2) has sufficient funding for the program.

The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver or amendment is approved.

(d) The office may adopt rules under IC 4-22-2 necessary to implement this section.

(e) This section expires December 31, 2013.

*As added by P.L.220-2011, SEC.264.*

### **IC 12-15-1.3-15**

#### **Waiver amendment; emergency placement priority**

Sec. 15. (a) As used in this section, "division" refers to the division of disability and rehabilitative services established by IC 12-9-1-1.

(b) As used in this section, "waiver" refers to any waiver administered by the office and the division under section 1915(c) of the federal Social Security Act.

(c) Before October 1, 2011, the office shall apply to the United States Department of Health and Human Services for approval to amend a waiver to set an emergency placement priority for individuals in the following situations:

(1) Death of a primary caregiver where alternative placement in a supervised group living setting:

(A) is not available; or

(B) is determined by the division to be an inappropriate option.

(2) A situation in which:

(A) the primary caregiver is at least eighty (80) years of age; and

(B) alternate placement in a supervised group living setting is not available or is determined by the division to be an inappropriate option.

(3) There is evidence of abuse or neglect in the current institutional or home placement, and alternate placement in a supervised group living setting is not available or is determined by the division to be an inappropriate option.

(4) There are other health and safety risks, as determined by the division director, and alternate placement in a supervised group living setting is not available or is determined by the division to be an inappropriate option.

(d) The division shall report on a quarterly basis the following information to the division of disability and rehabilitative services advisory council established by IC 12-9-4-2 concerning each Medicaid waiver for which the office has been approved under this section to administer an emergency placement priority for individuals described in this section:

(1) The number of applications for emergency placement priority waivers.

(2) The number of individuals served on the waiver.

(3) The number of individuals on a wait list for the waiver.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this section.

(f) This section expires July 1, 2016.

*As added by P.L.220-2011, SEC.264. Amended by P.L.229-2011,*

SEC.122.

**IC 12-15-1.3-16**

**Application for waiver to provide coverage for medically necessary umbilical cord transplants and related procedures; implementation of waiver; rules; expiration of section**

Sec. 16. (a) The office shall apply to the United States Department of Health and Human Services for an amendment to the state Medicaid plan to provide coverage for adults and children for medically necessary umbilical cord transplants and other related procedures under the state Medicaid program if the Medicaid recipient's provider receives prior approval for the procedure from the office.

(b) The office may not implement the plan amendment until the office files an affidavit with the governor attesting that the plan amendment applied for under this section is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the plan amendment is approved.

(c) If the office receives a plan amendment under this section from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (b), the office shall implement the plan amendment not more than sixty (60) days after the governor receives the affidavit.

(d) The office may adopt rules under IC 4-22-2 necessary to implement this section.

(e) This section expires December 31, 2013.

*As added by P.L.220-2011, SEC.264.*

**IC 12-15-1.3-17**

**Application for waiver to implement IC 12-15-1-20.4 concerning delinquent children; implementation of waiver; expiration of section**

Sec. 17. (a) The office shall apply to the United States Department of Health and Human Services to amend the state Medicaid plan if the office determines the amendment is necessary to carry out IC 12-15-1-20.4.

(b) The office may not implement a state plan amendment under this section until the office files an affidavit with the governor attesting that the plan amendment filed under this section is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the plan amendment is approved.

(c) If the office receives a plan amendment under this section from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (b), the office shall implement the plan amendment not more than sixty (60) days after the governor receives the affidavit.

(d) This section expires December 31, 2013.

*As added by P.L.220-2011, SEC.264.*