

IC 12-15-2

Chapter 2. Eligibility

IC 12-15-2-0.5

Provisions not limiting health care assistance

Sec. 0.5. (a) This section applies to a person who qualifies for assistance:

- (1) under sections 13 through 16 of this chapter;
- (2) under section 6 of this chapter when the person becomes ineligible for medical assistance under IC 12-14-2-5.1 or IC 12-14-2-5.3; or
- (3) as an individual with a disability if the person is less than eighteen (18) years of age and otherwise qualifies for assistance.

(b) Notwithstanding any other law, the following may not be construed to limit health care assistance to a person described in subsection (a):

- (1) IC 12-8-1-13.
- (2) IC 12-14-1-1.
- (3) IC 12-14-1-1.5.
- (4) IC 12-14-2-5.1.
- (5) IC 12-14-2-5.2.
- (6) IC 12-14-2-5.3.
- (7) IC 12-14-2-17.
- (8) IC 12-14-2-18.
- (9) IC 12-14-2-20.
- (10) IC 12-14-2-21.
- (11) IC 12-14-2-24.
- (12) IC 12-14-2-25.
- (13) IC 12-14-2-26.
- (14) IC 12-14-2.5.
- (15) IC 12-14-5.5.
- (16) Section 21 of this chapter.

As added by P.L.46-1995, SEC.31. Amended by P.L.2-2005, SEC.48; P.L.99-2007, SEC.94; P.L.161-2007, SEC.34; P.L.1-2010, SEC.58.

IC 12-15-2-1

"Federal income poverty level" defined

Sec. 1. As used in this chapter, "federal income poverty level" means the nonfarm income official poverty line as determined annually by the federal Office of Management and Budget.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-2

Determination and certification of eligibility and effective date of assistance

Sec. 2. The county office shall determine eligibility and shall certify to the office at the time and in the manner required by the office a list of individuals who have been found eligible to receive Medicaid and the effective date for the payment of assistance under

this chapter. The date must be one (1) month before the first day of the month in which the application or request is made.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.110; P.L.5-1993, SEC.123.

IC 12-15-2-3

Individuals eligible; receipt of monthly assistance payments or medical services; eligibility for medical services under aid to dependent children assistance category or under state supplemental assistance program for aged, blind, or disabled

Sec. 3. An individual who:

- (1) is receiving monthly assistance payments or medical services; or
- (2) would be eligible to receive medical services under the aid to dependent children assistance category or under the state supplemental assistance program for the aged, blind, or disabled;

is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-4

Individuals eligible; eligible under another approved state plan but for plan condition or requirement prohibited in Medicaid program under Social Security Act

Sec. 4. An individual who would be eligible for aid or assistance under one (1) of the other approved state plans except for an eligibility condition or other requirement in the plan that is specifically prohibited in a Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.) is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-5

Individuals eligible; recipients of old age assistance, blind assistance, or disabled assistance payments as of December 31, 1973

Sec. 5. An individual who:

- (1) was receiving assistance payments in the old age assistance, blind assistance, or disabled assistance categories as of December 31, 1973; and
- (2) continues to remain eligible under state laws and rules;

is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-6

Eligibility; individuals receiving Supplemental Security Income assistance; prohibition on spend down; December 31, 2013, expiration

Sec. 6. (a) Subject to subsection (b), An individual who:

- (1) is receiving monthly assistance payments under the federal

Supplemental Security Income program; and
(2) meets the income and resource requirements established by statute or the office unless the state is required to provide medical assistance to the individual under 42 U.S.C. 1396a(f) or under 42 U.S.C. 1382h;

is eligible to receive Medicaid.

(b) An individual who is receiving monthly disability assistance payments under the federal Supplemental Security Income program or the federal Social Security Disability Insurance program must meet the eligibility requirements specified in IC 12-14-15 unless the state is required to provide medical assistance to the individual under 42 U.S.C. 1382h.

(c) The office may not apply a spend down requirement to an individual who is eligible for medical assistance under 42 U.S.C. 1382h.

(d) This section expires December 31, 2013.

As added by P.L.2-1992, SEC.9. Amended by P.L.287-2001, SEC.5; P.L.218-2003, SEC.2; P.L.160-2011, SEC.6.

IC 12-15-2-6.5

Medicaid buy-in program

Sec. 6.5. Notwithstanding section 6 of this chapter, beginning July 1, 2002, an individual who meets the requirements of IC 12-15-41 is eligible for Medicaid.

As added by P.L.287-2001, SEC.6.

IC 12-15-2-7

Individuals eligible; children in families receiving TANF assistance

Sec. 7. A child in a family who receives TANF assistance and is less than twenty-one (21) years of age but not otherwise eligible to be included in section 2 or 3 of this chapter is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9. Amended by P.L.161-2007, SEC.35.

IC 12-15-2-8

Individuals eligible; patients in medical institutions or institutions for mentally retarded

Sec. 8. An individual who:

(1) has been found eligible for Medicaid under section 2, 3, 4, 5, or 6 of this chapter; and

(2) is a patient in an institution for the mentally retarded or who is a patient in a medical institution, as long as the institution or that part of the institution in which the patient resides qualifies as an intermediate care facility for mental retardation under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.);

is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-9

Individuals eligible; patients in institutions for mentally diseased; definition

Sec. 9. (a) As used in this section, "institution for the mentally diseased" includes a facility that meets the requirements and regulations under 42 U.S.C. 1396 et seq.

(b) Except as provided in subsections (c) and (d), an individual who:

- (1) is less than twenty-one (21) years of age or at least sixty-five (65) years of age who has been found to be eligible for Medicaid under section 2, 3, 4, 5, or 6 of this chapter; and
- (2) is a patient in an institution for the mentally diseased; is eligible to receive Medicaid.

(c) Psychiatric services may extend until twenty-two (22) years of age or until treatment has ended, whichever occurs first.

(d) Intermediate care facility services may be provided in a mental health institution.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-10

Individuals eligible; long term care program participants

Sec. 10. An individual who:

- (1) is at least sixty-five (65) years of age;
 - (2) participates in the Indiana long term care program under IC 12-15-39.6; and
 - (3) satisfies the requirements under IC 12-15-39.6-8;
- is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9. Amended by P.L.24-1997, SEC.45.

IC 12-15-2-11

Individuals eligible; qualified pregnant women

Sec. 11. A qualified pregnant woman (as defined in 42 U.S.C. 1396d(n)(1)) is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-12

Individuals eligible; qualified children

Sec. 12. A qualified child (as defined in 42 U.S.C. 1396d(n)(2)) is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9.

IC 12-15-2-13

Individuals eligible; pregnant women with limited family incomes; income limitations; covered services; duration of assistance

Sec. 13. (a) A pregnant woman:

- (1) who is not described in 42 U.S.C. 1396a(a)(10)(A)(i); and
 - (2) whose family income does not exceed the income level established in subsection (b);
- is eligible to receive Medicaid.

(b) A pregnant woman described in this section is eligible to receive Medicaid, subject to subsections (c) and (d) and 42 U.S.C.

1396a et seq., if her family income does not exceed two hundred percent (200%) of the federal income poverty level for the same size family.

(c) Medicaid made available to a pregnant woman described in this section is limited to medical assistance for services related to pregnancy, including prenatal, delivery, and postpartum services, and to other conditions that may complicate pregnancy.

(d) Medicaid is available to a pregnant woman described in this section for the duration of the pregnancy and for the sixty (60) day postpartum period that begins on the last day of the pregnancy, without regard to any change in income of the family of which she is a member during that time.

(e) The office may apply a resource standard in determining the eligibility of a pregnant woman described in this section.

As added by P.L.2-1992, SEC.9. Amended by P.L.46-1995, SEC.32; P.L.119-1997, SEC.1; P.L.218-2007, SEC.9.

IC 12-15-2-13.5

Eligibility for women screened and in need of treatment for breast or cervical cancer

Sec. 13.5. (a) A woman:

- (1) who is not eligible for Medicaid under any other section of this chapter;
- (2) who is less than sixty-five (65) years of age;
- (3) who has been:
 - (A) screened for breast or cervical cancer through the breast and cervical cancer screening program or by another provider under the federal Breast and Cervical Cancer Mortality Prevention Act of 1990 (42 U.S.C. 300k); and
 - (B) determined to need treatment for breast or cervical cancer;
- (4) who is not otherwise covered under credible coverage (as defined in 42 U.S.C. 300gg(c)); and
- (5) whose family income does not exceed two hundred percent (200%) of the federal income poverty level for the same size family;

is eligible for Medicaid.

(b) Medicaid made available to a woman described in subsection (a) is limited to the duration of treatment required for breast or cervical cancer.

As added by P.L.152-2001, SEC.2. Amended by P.L.107-2009, SEC.1.

IC 12-15-2-14

Minors with limited family income

Sec. 14. (a) An individual:

- (1) who is less than nineteen (19) years of age;
- (2) who is not described in 42 U.S.C. 1396a(a)(10)(A)(I); and
- (3) whose family income does not exceed the income level established in subsection (b);

is eligible to receive Medicaid.

(b) An individual described in this section is eligible to receive Medicaid, subject to 42 U.S.C. 1396a et seq., if the individual's family income does not exceed one hundred fifty percent (150%) of the federal income poverty level for the same size family.

(c) The office may apply a resource standard in determining the eligibility of an individual described in this section.

As added by P.L.2-1992, SEC.9. Amended by P.L.46-1995, SEC.33; P.L.119-1997, SEC.2; P.L.273-1999, SEC.171.

IC 12-15-2-15

Repealed

(Repealed by P.L.273-1999, SEC.182.)

IC 12-15-2-15.5

Repealed

(Repealed by P.L.273-1999, SEC.182.)

IC 12-15-2-15.6

Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 12-15-2-15.7

Repealed

(Repealed by P.L.107-2002, SEC.32.)

IC 12-15-2-15.8

Continuous eligibility to three years of age

Sec. 15.8. After an individual who is less than three (3) years of age is determined to be eligible for Medicaid under section 14 of this chapter, the individual is not required to submit eligibility information more frequently than once in a twelve (12) month period until the child becomes three (3) years of age.

As added by P.L.218-2007, SEC.10.

IC 12-15-2-16

Eligibility of individuals under 18 years of age

Sec. 16. An individual:

- (1) who is less than eighteen (18) years of age;
- (2) who is described in 42 U.S.C. 1396a(a)(10)(A)(ii); and
- (3) who is:
 - (A) a child in need of services (as defined in IC 31-34-1);
 - (B) a child placed in the custody of the department of child services under IC 31-35-6-1 (or IC 31-6-5-5 before its repeal); or
 - (C) a child placed under the supervision or in the custody of the department of child services by an order of the court;

is eligible to receive Medicaid.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.111; P.L.5-1993, SEC.124; P.L.1-1997, SEC.60; P.L.145-2006, SEC.86;

P.L.146-2008, SEC.387.

IC 12-15-2-16.5

Automatic assignment to medical support and third party medical payments; application

Sec. 16.5. (a) An individual who is applying for Medicaid or receiving Medicaid is considered to have automatically assigned to the state the individual's rights, or the rights of any other person who is dependent upon the individual and eligible for Medicaid, to medical support and other third party payments for medical care for the duration of enrollment in the Medicaid program by the individual or the individual's dependent.

(b) An individual's assignment under subsection (a):

(1) is effective only for services that are reimbursed by Medicaid; and

(2) does not apply to Medicare payments.

As added by P.L.153-2011, SEC.16.

IC 12-15-2-17

Exclusion of resources in determining eligibility for Medicaid; conditions

Sec. 17. (a) Except as provided in subsections (b) and (d), if an applicant for or a recipient of Medicaid:

(1) establishes one (1) irrevocable trust that has a value of not more than ten thousand dollars (\$10,000), exclusive of interest, and is established for the sole purpose of providing money for the burial of the applicant or recipient;

(2) enters into an irrevocable prepaid funeral agreement having a value of not more than ten thousand dollars (\$10,000); or

(3) owns a life insurance policy with a face value of not more than ten thousand dollars (\$10,000) and with respect to which provision is made to pay not more than ten thousand dollars (\$10,000) toward the applicant's or recipient's funeral expenses;

the value of the trust, prepaid funeral agreement, or life insurance policy may not be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid.

(b) Subject to subsection (d), if an applicant for or a recipient of Medicaid establishes an irrevocable trust or escrow under IC 30-2-13, the entire value of the trust or escrow may not be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid.

(c) Except as provided in IC 12-15-3-7, if an applicant for or a recipient of Medicaid owns resources described in subsection (a) and the total value of those resources is more than ten thousand dollars (\$10,000), the value of those resources that is more than ten thousand dollars (\$10,000) may be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid.

(d) In order for a trust, an escrow, a life insurance policy, or a prepaid funeral agreement to be exempt as a resource in determining an applicant's or a recipient's eligibility for Medicaid under this

section, the applicant or recipient must designate the office or the applicant's or recipient's estate to receive any remaining amounts after delivery of all services and merchandise under the contract as reimbursement for Medicaid assistance provided to the applicant or recipient after fifty-five (55) years of age. The office may receive funds under this subsection only to the extent permitted by 42 U.S.C. 1396p. The computation of remaining amounts shall be made as of the date of delivery of services and merchandise under the contract and must be the excess, if any, derived from:

- (1) growth in principal;
- (2) accumulation and reinvestment of dividends;
- (3) accumulation and reinvestment of interest; and
- (4) accumulation and reinvestment of distributions;

on the applicant's or recipient's trust, escrow, life insurance policy, or prepaid funeral agreement over and above the seller's current retail price of all services, merchandise, and cash advance items set forth in the applicant's or recipient's contract.

As added by P.L.2-1992, SEC.9. Amended by P.L.113-1996, SEC.1; P.L.272-1999, SEC.39; P.L.178-2002, SEC.80; P.L.196-2011, SEC.2.

IC 12-15-2-18

Financial resources; state or federal higher education awards

Sec. 18. Except as provided by federal law, if an individual receives a state or federal higher education award that is paid directly to an approved postsecondary educational institution for the individual's benefit:

- (1) the individual is not required to report that award as income or as a resource of the individual when applying for Medicaid; and
- (2) the award may not be considered as income or a resource of the individual in determining initial or continuing eligibility for Medicaid.

As added by P.L.2-1992, SEC.9. Amended by P.L.2-2007, SEC.160.

IC 12-15-2-19

Acquisition of property, income, or resources; notification of county office; alteration or cancellation of assistance; recovery of excess assistance

Sec. 19. (a) If, while receiving Medicaid, a recipient becomes the owner of any:

- (1) property;
- (2) income; or
- (3) resources;

in excess of the amount owned when the recipient's eligibility was determined, the recipient shall immediately notify the county office of the receipt of possession of the property or income.

(b) After an investigation of circumstances under subsection (a), the county office shall recommend to the office the cancellation or alteration of the amount of Medicaid in accordance with the

circumstances.

(c) Assistance paid after the recipient acquires possession of:

- (1) property;
- (2) income; or
- (3) resources;

in excess of the recipient's needs is recoverable by the office from the recipient or the estate of the recipient.

(d) However, an eligible individual is not required to notify the division or county office of a Holocaust victim's settlement payment received by the individual. A county office may not cancel or alter the amount of Medicaid received by the individual after the individual's receipt of the payment. Assistance paid after the individual's receipt of the payment is not recoverable by the office from the individual or the estate of the individual.

As added by P.L.2-1992, SEC.9. Amended by P.L.4-1993, SEC.112; P.L.5-1993, SEC.125; P.L.128-1999, SEC.20.

IC 12-15-2-20

Ineligibility after conviction

Sec. 20. (a) This section does not apply to a provider (as defined in IC 12-7-2-149.1(2)).

(b) A person convicted of an offense under IC 35-43-5-7.1 is ineligible to receive Medicaid assistance under this article for ten (10) years after the conviction.

As added by P.L.46-1995, SEC.36. Amended by P.L.241-2003, SEC.3.

IC 12-15-2-21

Ineligibility due to noncompliance

Sec. 21. Notwithstanding any other provision of this article, a person who is ineligible for assistance under IC 12-14-2 because of noncompliance with IC 12-14-2-21, IC 12-14-2-24, IC 12-14-2-26, or IC 12-14-5.5 is ineligible for Medicaid under this article.

As added by P.L.46-1995, SEC.37.

IC 12-15-2-22

Determination of eligibility; certain equity value in motor vehicle may not be considered

Sec. 22. When the office applies a resource standard to determine an applicant's or a recipient's eligibility for Medicaid under this chapter, the office may not consider five thousand dollars (\$5,000) of equity value (as defined in 470 IAC 10.1-3-1) in one (1) motor vehicle belonging to:

- (1) the applicant or recipient; or
- (2) a member of the applicant's or recipient's family.

As added by P.L.126-1998, SEC.2.

IC 12-15-2-23

Look back; exemption for certain contributions

Sec. 23. (a) This section is effective beginning October 1, 2009.

(b) When the office conducts a look back (as described in 42 U.S.C. 1396p(c)) to determine, for purposes of eligibility, whether an individual improperly transferred assets, the office shall not consider in total one thousand two hundred dollars (\$1,200) per year of contributions made by the individual to a:

- (1) family member; or
- (2) nonprofit organization;

as an improper transfer.

(c) Any rule adopted by the office of the secretary concerning a transfer of property may not apply to a transfer of property that occurred before the effective date of the rule.

As added by P.L.14-2009, SEC.1. Amended by P.L.229-2011, SEC.123.

IC 12-15-2-23.5

Implementation of federal Deficit Reduction Act of 2005

Sec. 23.5. (a) This section is effective beginning October 1, 2009.

(b) In implementing the federal Deficit Reduction Act of 2005, the office shall comply with the following:

- (1) A rule adopted may not apply to the transfer of property or another transaction that occurred before the passage of the rule.
- (2) The office may not require an individual to return all assets in order to reduce a penalty period for the transfer of assets. The office shall allow a penalty period to be proportionally reduced for a partial return of assets.

As added by P.L.14-2009, SEC.2. Amended by P.L.229-2011, SEC.124.

IC 12-15-2-24

Eligibility; community spouse resource requirements

Sec. 24. (a) This section applies to determining eligibility for an individual who:

- (1) resides in a nursing facility or another medical institution; and
- (2) has a community spouse.

(b) In determining eligibility for an individual described in subsection (a), the office shall, beginning in calendar year 2006, use the greater of the following community spouse resource allowances:

- (1) Nineteen thousand twenty dollars (\$19,020), subject to an adjustment described in 42 U.S.C. 1396r-5(g).
- (2) The lesser of:
 - (A) the spousal share computed under 42 U.S.C. 1396r-5(c)(1); or
 - (B) ninety-five thousand one hundred dollars (\$95,100), subject to an adjustment described in 42 U.S.C. 1396r-5g.

- (3) An amount established by a court order or an administrative hearing if the community spouse's income is less than the minimum monthly needs allowance established under 42 U.S.C. 1396r-5(d)(3) and an increased amount is necessary to increase the community spouse's income to the minimum monthly needs

allowance.

(c) An institutionalized spouse shall not be ineligible for the program because of resources if:

(1) the institutionalized spouse:

(A) establishes that the individual has a right to receive support from the community spouse; and

(B) assigns to the office the right to receive support from the community spouse; or

(2) the office determines that the denial of eligibility would result in an undue hardship to the institutionalized spouse.

(d) The office shall adopt rules under IC 4-22-2 to calculate the amount of resources necessary to provide income to the community spouse under subsection (b).

As added by P.L.246-2005, SEC.102.

IC 12-15-2-25

Eligibility; retention of income to support community spouse

Sec. 25. (a) This section applies to an individual who:

(1) is eligible for Medicaid;

(2) resides in a nursing facility or another medical institution; and

(3) has a community spouse.

(b) An individual described in subsection (a) is entitled to retain an income allowance for the purpose of supporting a community spouse if:

(1) the community spouse's income is less than the minimum monthly needs allowance established under 42 U.S.C. 1396r-5(d)(3); and

(2) an increased amount is necessary to increase the community spouse's income to the minimum monthly needs allowance.

(c) If either spouse establishes that a higher allowance is needed due to exceptional circumstances resulting in significant financial duress, the minimum monthly needs allowance may be increased after an administrative hearing or by a court order.

(d) The office shall adopt rules under IC 4-22-2 setting forth the manner in which the office will determine the existence of exceptional circumstances resulting in significant financial duress under subsection (c).

As added by P.L.246-2005, SEC.103.