



January 31, 2003

HOUSE BILL No. 1257

DIGEST OF HB 1257 (Updated January 21, 2003 5:44 PM - DI 77)

Citations Affected: IC 12-10; IC 12-15.

Synopsis: Personal needs allowance. Provides that certain elderly or disabled individuals who are enrolled or eligible for Medicaid or federal Supplemental Security Income are allowed a monthly personal allowance of \$78. Requires the monthly personal allowance to be annually adjusted.

Effective: July 1, 2003.

Hasler

January 13, 2003, read first time and referred to Committee on Public Health.
January 28, 2003, reported — Do Pass. Referred to Committee on Ways and Means.

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HB 1257—LS 6579/DI 77+



January 31, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1257

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-10-6-1, AS AMENDED BY P.L.294-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 1. (a) An individual who:
4 (1) is at least sixty-five (65) years of age, blind, or disabled; and
5 (2) is a resident of a county home;
6 is eligible to receive assistance payments from the state if the
7 individual would be eligible for assistance under the federal
8 Supplemental Security Income program except for the fact that the
9 individual is residing in a county home.
10 (b) The amount of nonmedical assistance to be paid on behalf of a
11 resident in a county home must be based on the daily rate established
12 by the division. The rate for facilities under this section and licensed
13 under IC 16-28 may not exceed an upper rate limit established by a rule
14 adopted by the division.
15 (c) The rate for facilities under this section but not licensed under
16 IC 16-28 must be the lesser of:
17 (1) an upper rate limit established by a rule adopted by the

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1 division; or

2 (2) a reasonable and adequate rate to meet the costs, determined
3 by generally accepted accounting principles, that are incurred by
4 efficiently and economically operated facilities in order to provide
5 care and services in conformity with quality and safety standards
6 and applicable laws and rules.

7 (d) The recipient shall be paid or allowed to retain from the
8 recipient's income a monthly personal allowance. The amount:

9 (1) is ~~fifty-two~~ **seventy-eight** dollars (~~\$52~~); (**\$78**);

10 (2) is exempt from income eligibility consideration by the
11 division; and

12 (3) may be exclusively used by the recipient for personal needs.

13 **The division shall annually adjust the amount of the personal**
14 **allowance to account for the immediately preceding year's increase**
15 **in prices using the Consumer Price Index for All Urban Consumers**
16 **of the Bureau of Labor Statistics of the United States Department**
17 **of Labor.**

18 (e) In addition to the amount that may be retained as a personal
19 allowance under this section, an individual is allowed to retain an
20 amount equal to the individual's state and local income tax liability.
21 The amount that may be retained during a month may not exceed
22 one-third (1/3) of the individual's state and local income tax liability for
23 the calendar quarter in which the month occurs. This amount is exempt
24 from income eligibility consideration by the division. The amount
25 retained shall be used by the individual to pay state or local income
26 taxes owed.

27 (f) In addition to the amounts that may be retained under
28 subsections (d) and (e), an eligible individual may retain a Holocaust
29 victim's settlement payment. The payment is exempt from income
30 eligibility consideration by the division.

31 (g) The personal allowance for one (1) month for an individual
32 described in subsection (a) is the amount that an individual would be
33 entitled to retain under subsection (d) plus an amount equal to one-half
34 (1/2) of the remainder of:

35 (1) gross earned income for that month; minus

36 (2) the sum of:

37 (A) sixteen dollars (\$16); plus

38 (B) the amount withheld from the person's paycheck for that
39 month for payment of state income tax, federal income tax,
40 and the tax prescribed by the federal Insurance Contribution
41 Act (26 U.S.C. 3101 et seq.); plus

42 (C) transportation expenses for that month; plus

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- 1 (D) any mandatory expenses required by the employer as a
 2 condition of employment.
- 3 (h) The division of disability, aging, and rehabilitative services, in
 4 cooperation with the state department of health taking into account
 5 licensure requirements under IC 16-28, shall adopt rules under
 6 IC 4-22-2 governing the reimbursement to facilities under this section.
 7 The rules must be designed to determine the costs that must be incurred
 8 by efficiently and economically operated facilities to provide room,
 9 board, laundry, and other services, along with minimal administrative
 10 direction to individuals who receive residential care in the facilities
 11 under this section. A rule adopted under this subsection by:
 12 (1) the division; or
 13 (2) the state department of health;
 14 must conform to the rules for residential care facilities that are licensed
 15 under IC 16-28.
- 16 (i) A rate established under this section may be appealed according
 17 to the procedures under IC 4-21.5.
- 18 (j) The division shall annually review each facility's rate using the
 19 following:
 20 (1) Generally accepted accounting principles.
 21 (2) The costs incurred by efficiently and economically operated
 22 facilities in order to provide care and services in conformity with
 23 quality and safety standards and applicable laws and rules.
- 24 SECTION 2. IC 12-10-6-2, AS AMENDED BY P.L.294-2001,
 25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2003]: Sec. 2. (a) An individual who is incapable of residing
 27 in the individual's own home may apply for residential care assistance
 28 under this section. The determination of eligibility for residential care
 29 assistance is the responsibility of the division. Except as provided in
 30 subsections (g) and (i), an individual is eligible for residential care
 31 assistance if the division determines that the individual:
 32 (1) is a recipient of Medicaid or the federal Supplemental Security
 33 Income program;
 34 (2) is incapable of residing in the individual's own home because
 35 of dementia, mental illness, or a physical disability;
 36 (3) requires a degree of care less than that provided by a health
 37 care facility licensed under IC 16-28; and
 38 (4) can be adequately cared for in a residential care setting.
- 39 (b) Individuals suffering from mental retardation may not be
 40 admitted to a home or facility that provides residential care under this
 41 section.
- 42 (c) A service coordinator employed by the division may:

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1 (1) evaluate a person seeking admission to a home or facility
2 under subsection (a); or

3 (2) evaluate a person who has been admitted to a home or facility
4 under subsection (a), including a review of the existing
5 evaluations in the person's record at the home or facility.

6 If the service coordinator determines the person evaluated under this
7 subsection is mentally retarded, the service coordinator may
8 recommend an alternative placement for the person.

9 (d) Except as provided in section 5 of this chapter, residential care
10 consists of only room, board, and laundry, along with minimal
11 administrative direction. State financial assistance may be provided for
12 such care in a boarding or residential home of the applicant's choosing
13 that is licensed under IC 16-28 or a Christian Science facility listed and
14 certified by the Commission for Accreditation of Christian Science
15 Nursing Organizations/Facilities, Inc., that meets certain life safety
16 standards considered necessary by the state fire marshal. Payment for
17 such care shall be made to the provider of the care according to
18 division directives and supervision. The amount of nonmedical
19 assistance to be paid on behalf of a recipient living in a boarding home,
20 residential home, or Christian Science facility shall be based on the
21 daily rate established by the division. The rate for facilities that are
22 referred to in this section and licensed under IC 16-28 may not exceed
23 an upper rate limit established by a rule adopted by the division. The
24 recipient may retain from the recipient's income a monthly personal
25 allowance of ~~fifty-two~~ **seventy-eight** dollars (~~\$52~~). (**\$78**). This amount
26 is exempt from income eligibility consideration by the division and
27 may be exclusively used by the recipient for the recipient's personal
28 needs. However, if the recipient's income is less than the amount of the
29 personal allowance, the division shall pay to the recipient the
30 difference between the amount of the personal allowance and the
31 recipient's income. **The division shall annually adjust the amount of**
32 **the personal allowance to account for the immediately preceding**
33 **year's increase in prices using the Consumer Price Index for All**
34 **Urban Consumers of the Bureau of Labor Statistics of the United**
35 **States Department of Labor.** A reserve or an accumulated balance
36 from such a source, together with other sources, may not be allowed to
37 exceed the state's resource allowance allowed for adults eligible for
38 state supplemental assistance or Medicaid as established by the rules
39 of the office of Medicaid policy and planning.

40 (e) In addition to the amount that may be retained as a personal
41 allowance under this section, an individual shall be allowed to retain
42 an amount equal to the individual's state and local income tax liability.



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1 The amount that may be retained during a month may not exceed
 2 one-third (1/3) of the individual's state and local income tax liability for
 3 the calendar quarter in which that month occurs. This amount is
 4 exempt from income eligibility consideration by the division. The
 5 amount retained shall be used by the individual to pay any state or local
 6 income taxes owed.

7 (f) In addition to the amounts that may be retained under
 8 subsections (d) and (e), an eligible individual may retain a Holocaust
 9 victim's settlement payment. The payment is exempt from income
 10 eligibility consideration by the division.

11 (g) The rate of payment to the provider shall be determined in
 12 accordance with a prospective prenegotiated payment rate predicated
 13 on a reasonable cost related basis, with a growth of profit factor, as
 14 determined in accordance with generally accepted accounting
 15 principles and methods, and written standards and criteria, as
 16 established by the division. The division shall establish an
 17 administrative appeal procedure to be followed if rate disagreement
 18 occurs if the provider can demonstrate to the division the necessity of
 19 costs in excess of the allowed or authorized fee for the specific
 20 boarding or residential home. The amount may not exceed the
 21 maximum established under subsection (d).

22 (h) The personal allowance for one (1) month for an individual
 23 described in subsection (a) is the amount that an individual would be
 24 entitled to retain under subsection (d) plus an amount equal to one-half
 25 (1/2) of the remainder of:

- 26 (1) gross earned income for that month; minus
- 27 (2) the sum of:
 - 28 (A) sixteen dollars (\$16); plus
 - 29 (B) the amount withheld from the person's paycheck for that
 30 month for payment of state income tax, federal income tax,
 31 and the tax prescribed by the federal Insurance Contribution
 32 Act (26 U.S.C. 3101 et seq.); plus
 - 33 (C) transportation expenses for that month; plus
 - 34 (D) any mandatory expenses required by the employer as a
 35 condition of employment.

36 (i) An individual who, before September 1, 1983, has been admitted
 37 to a home or facility that provides residential care under this section is
 38 eligible for residential care in the home or facility.

39 (j) The director of the division may contract with the division of
 40 mental health or the division of disability, aging, and rehabilitative
 41 services to purchase services for individuals suffering from mental
 42 illness or a developmental disability by providing money to supplement

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1 the appropriation for community residential care programs established
2 under IC 12-22-2 or community residential programs established under
3 IC 12-11-1.1-1.

4 (k) A person with a mental illness may not be placed in a Christian
5 Science facility listed and certified by the Commission for
6 Accreditation of Christian Science Nursing Organizations/Facilities,
7 Inc., unless the facility is licensed under IC 16-28.

8 SECTION 3. IC 12-15-7-2, AS AMENDED BY P.L.294-2001,
9 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2003]: Sec. 2. ~~Fifty-two~~ **(a) Seventy-eight** dollars ~~(\$52)~~ **(\$78)**
11 monthly may be exempt from income eligibility consideration.

12 **(b) The office shall annually adjust the amount described in**
13 **subsection (a) to account for the immediately preceding year's**
14 **increase in prices using the Consumer Price Index for All Urban**
15 **Consumers of the Bureau of Labor Statistics of the United States**
16 **Department of Labor.**

17 SECTION 4. IC 12-15-32-6, AS AMENDED BY P.L.294-2001,
18 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2003]: Sec. 6. **(a)** The office shall allow a resident of a facility
20 who is receiving Medicaid to retain a personal allowance of ~~fifty-two~~
21 **seventy-eight** dollars ~~(\$52)~~ **(\$78)** each month.

22 **(b) The office shall annually adjust the amount described in**
23 **subsection (a) to account for the immediately preceding year's**
24 **increase in prices using the Consumer Price Index for All Urban**
25 **Consumers of the Bureau of Labor Statistics of the United States**
26 **Department of Labor.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1257, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BROWN C, Chair

Committee Vote: yeas 10, nays 0.

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