

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 350**

Citations Affected: IC 12-15; IC 12-29.

Synopsis: Community mental health centers. Conference committee report for ESB 350. Requires a county (other than Marion County) to transfer money to the division of mental health and addiction (division) to satisfy the non-federal share of medical assistance payments to community mental health centers for: (1) certain administrative services; and (2) community mental health rehabilitation services; in a specified time frame. Permits the health and hospital corporation of Marion County to make payments to the division for the operation of a community mental health center. Requires the division to ensure that the non-federal share of funding received from a county is applied only for a county's designated community mental health center. Specifies the manner in which the division may distribute certain excess state funds. Provides that the county levy for community mental health services is allocated to: (1) the division of mental health and addiction for operational expenses of community mental health centers; and (2) the community mental health centers. Provides that the provisions of the bill are applicable only to the extent that: (1) the congressional moratorium on the implementation of certain rules by the U.S. Secretary of Health and Human Services is not extended; and (2) the restricted rules are implemented. Makes conforming changes. **(This conference committee report removes language that: (1) requires the division to ensure that community mental health centers are allocated funding provided in the 2006-2007 state fiscal year and provide notice of available funding; and (2) specifies the manner in which funds are to be allocated for the 2008-2009 state fiscal year appropriation from the tobacco master settlement fund and the state general fund to community mental health centers.)**

Effective: Upon passage; July 1, 2008.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 350 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 12-15-16-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A provider that
4 is an acute care hospital licensed under IC 16-21, a state mental health
5 institution under IC 12-24-1-3, or a private psychiatric institution
6 licensed under IC 12-25 is a disproportionate share provider if the
7 provider meets either of the following conditions:
8 (1) The provider's Medicaid inpatient utilization rate is at least
9 one (1) standard deviation above the mean Medicaid inpatient
10 utilization rate for providers receiving Medicaid payments in
11 Indiana. However, the Medicaid inpatient utilization rate of
12 providers whose low income utilization rate exceeds twenty-five
13 percent (25%) must be excluded in calculating the statewide
14 mean Medicaid inpatient utilization rate.
15 (2) The provider's low income utilization rate exceeds twenty-five
16 percent (25%).
17 (b) An acute care hospital licensed under 16-21 is a municipal
18 disproportionate share provider if the hospital:
19 (1) has a Medicaid utilization rate greater than one percent (1%);
20 and
21 (2) is established and operated under IC 16-22-2 or IC 16-23.
22 (c) A community mental health center: ~~that:~~

1 (1) **that** is identified in IC 12-29-2-1;

2 (2) ~~receives funding under:~~ **for which a county provides funds**
3 **under:**

4 (A) IC 12-29-1-7(b) before January 1, 2004; or

5 (B) ~~IC 12-29-2-20(e)~~ **IC 12-29-2-20(d)** after December 31,
6 2003;

7 or from other county sources; and

8 (3) **that** provides inpatient services to Medicaid patients;

9 is a community mental health center disproportionate share provider if
10 the community mental health center's Medicaid inpatient utilization
11 rate is greater than one percent (1%).

12 (d) A disproportionate share provider under IC 12-15-17 must have
13 at least two (2) obstetricians who have staff privileges and who have
14 agreed to provide obstetric services under the Medicaid program. For
15 a hospital located in a rural area (as defined in Section 1886 of the
16 Social Security Act), an obstetrician includes a physician with staff
17 privileges at the hospital who has agreed to perform nonemergency
18 obstetric procedures. However, this obstetric service requirement does
19 not apply to a provider whose inpatients are predominantly individuals
20 less than eighteen (18) years of age or that did not offer nonemergency
21 obstetric services as of December 21, 1987.

22 (e) The determination of a provider's status as a disproportionate
23 share provider under this section shall be based on utilization and
24 revenue data from the most recent year for which an audited cost report
25 from the provider is on file with the office.

26 SECTION 2. IC 12-15-18-5.1 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.1. (a) For state fiscal
28 years ending on or after June 30, 1998, the trustees and each municipal
29 health and hospital corporation established under IC 16-22-8-6 are
30 authorized to make intergovernmental transfers to the Medicaid
31 indigent care trust fund in amounts to be determined jointly by the
32 office and the trustees, and the office and each municipal health and
33 hospital corporation.

34 (b) The treasurer of state shall annually transfer from appropriations
35 made for the division of mental health and addiction sufficient money
36 to provide the state's share of payments under IC 12-15-16-6(c)(2).

37 (c) The office shall coordinate the transfers from the trustees and
38 each municipal health and hospital corporation established under
39 IC 16-22-8-6 so that the aggregate intergovernmental transfers, when
40 combined with federal matching funds:

41 (1) produce payments to each hospital licensed under IC 16-21
42 that qualifies as a disproportionate share provider under
43 IC 12-15-16-1(a); and

44 (2) both individually and in the aggregate do not exceed limits
45 prescribed by the federal Centers for Medicare and Medicaid
46 Services.

47 The trustees and a municipal health and hospital corporation are not
48 required to make intergovernmental transfers under this section. The
49 trustees and a municipal health and hospital corporation may make
50 additional transfers to the Medicaid indigent care trust fund to the
51 extent necessary to make additional payments from the Medicaid

1 indigent care trust fund apply to a prior federal fiscal year as provided
2 in IC 12-15-19-1(b).

3 (d) A municipal disproportionate share provider (as defined in
4 IC 12-15-16-1) shall transfer to the Medicaid indigent care trust fund
5 an amount determined jointly by the office and the municipal
6 disproportionate share provider. A municipal disproportionate share
7 provider is not required to make intergovernmental transfers under this
8 section. A municipal disproportionate share provider may make
9 additional transfers to the Medicaid indigent care trust fund to the
10 extent necessary to make additional payments from the Medicaid
11 indigent care trust fund apply to a prior federal fiscal year as provided
12 in IC 12-15-19-1(b).

13 (e) A county making a payment under:

14 (1) IC 12-29-1-7(b) before January 1, 2004; or

15 (2) ~~IC 12-29-2-20(e)~~ **IC 12-29-2-20(d)** after December 31, 2003;
16 or from other county sources to a community mental health center
17 qualifying as a community mental health center disproportionate share
18 provider shall certify that the payment represents expenditures that are
19 eligible for federal financial participation under 42 U.S.C.
20 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in
21 making this certification.

22 SECTION 3. IC 12-29-2-2, AS AMENDED BY P.L.224-2007,
23 SECTION 102, IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) A county shall fund the
25 operation of community mental health centers in the amount
26 determined under subsection (b), unless a lower tax levy amount will
27 be adequate to fulfill the county's financial obligations under this
28 chapter in any of the following situations:

29 (1) If the total population of the county is served by one (1)
30 center.

31 (2) If the total population of the county is served by more than one
32 (1) center.

33 (3) If the partial population of the county is served by one (1)
34 center.

35 (4) If the partial population of the county is served by more than
36 one (1) center.

37 (b) The amount of funding under subsection (a) for taxes first due
38 and payable in a calendar year is the following:

39 (1) For 2004, the amount is the amount determined under STEP
40 THREE of the following formula:

41 STEP ONE: Determine the amount that was levied within the
42 county to comply with this section from property taxes first
43 due and payable in 2002.

44 STEP TWO: Multiply the STEP ONE result by the county's
45 assessed value growth quotient for the ensuing year 2003, as
46 determined under IC 6-1.1-18.5-2.

47 STEP THREE: Multiply the STEP TWO result by the county's
48 assessed value growth quotient for the ensuing year 2004, as
49 determined under IC 6-1.1-18.5-2.

50 (2) Except as provided in subsection (c), for 2005 and each year
51 thereafter, the result equal to:

1 (A) the amount that was levied in the county to comply with
 2 this section from property taxes first due and payable in the
 3 calendar year immediately preceding the ensuing calendar
 4 year; multiplied by

5 (B) the county's assessed value growth quotient for the ensuing
 6 calendar year, as determined under IC 6-1.1-18.5-2.

7 (c) This subsection applies only to property taxes first due and
 8 payable after December 31, 2007. This subsection applies only to a
 9 county for which a county adjusted gross income tax rate is first
 10 imposed or is increased in a particular year under IC 6-3.5-1.1-24 or a
 11 county option income tax rate is first imposed or is increased in a
 12 particular year under IC 6-3.5-6-30. Notwithstanding any provision in
 13 this section or any other section of this chapter, for a county subject to
 14 this subsection, the county's maximum property tax levy under this
 15 section to fund the operation of community mental health centers for
 16 the ensuing calendar year is equal to the county's maximum property
 17 tax levy to fund the operation of community mental health centers for
 18 the current calendar year.

19 **(d) Except as provided in subsection (h), the county shall pay to**
 20 **the division of mental health and addiction the part of the funding**
 21 **determined under subsection (b) that is appropriated solely for**
 22 **funding the operations of a community health center. The funding**
 23 **required under this section for operations of a community health**
 24 **center shall be paid by the county to the division of mental health**
 25 **and addiction. These funds shall be used solely for satisfying the**
 26 **non-federal share of medical assistance payments to community**
 27 **mental health centers serving the county for:**

28 **(1) allowable administrative services; and**

29 **(2) community mental health rehabilitation services.**

30 **All other funding appropriated for the purposes allowed under**
 31 **section 1.2(b)(1) of this chapter shall be paid by the county directly**
 32 **to the community mental health center semiannually at the times**
 33 **that the payments are made under subsection (e).**

34 **(e) The county shall appropriate and disburse the funds for**
 35 **operations semiannually not later than December 1 and June 1 in**
 36 **an amount equal to the amount determined under subsection (b)**
 37 **and requested in writing by the division of mental health and**
 38 **addiction. The total funding amount paid to the division of mental**
 39 **health and addiction for a county for each calendar year may not**
 40 **exceed the amount that is calculated in subsection (b) and set forth**
 41 **in writing by the division of mental health and addiction for the**
 42 **county. Funds paid to the division of mental health and addiction**
 43 **by the county shall be submitted by the county in a timely manner**
 44 **after receiving the written request from the division of mental**
 45 **health and addiction, to ensure current year compliance with the**
 46 **community mental health rehabilitation program and any**
 47 **administrative requirements of the program.**

48 **(f) The division of mental health and addiction shall ensure that**
 49 **the non-federal share of funding received from a county under this**
 50 **program is applied only for matching federal funds for the**
 51 **designated community mental health centers to the extent a center**

1 is eligible to receive county funding under IC 12-21-2-3(a)(5)(E).

2 (g) The division of mental health and addiction:

3 (1) shall first apply state funding to a community mental
4 health center's non-federal share of funding under this
5 program; and

6 (2) may next apply county funding received under
7 IC 12-29-2-2 to any remaining non-federal share of funding
8 for the community mental health center.

9 The division shall distribute any excess state funds that exceed the
10 community mental health rehabilitation services non-federal share
11 applied to a community mental health center that is entitled to the
12 excess state funds.

13 (h) The health and hospital corporation of Marion County
14 created by IC 16-22-8-6 may make payments to the division for the
15 operation of a community mental health center as described in this
16 chapter.

17 SECTION 4. IC 12-29-2-15 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) A community
19 mental health center that:

20 (1) is certified by the division of mental health and addiction; **and**
21 ~~(2) receives county funding from one (1) or more counties under~~
22 ~~this chapter; and~~

23 ~~(3) (2) is not administered by a hospital licensed under~~
24 ~~IC 16-21-2;~~

25 shall include a member of a county fiscal body, or a county fiscal
26 body's designee, on the center's governing board. The member shall be
27 selected by the county fiscal body of the county where the community
28 mental health center maintains its corporate mailing address. The
29 county fiscal body representative must reside in one (1) of the counties
30 in the community mental health center's primary service area.

31 (b) A community mental health center that:

32 (1) is certified by the division of mental health and addiction; **and**
33 (2) ~~receives county funding from one (1) or more counties under~~
34 ~~this chapter; and~~

35 ~~(3) is administered by a hospital licensed under IC 16-21-2;~~

36 shall include a member of a county fiscal body, or a county fiscal
37 body's designee, on the center's advisory board. The member shall be
38 selected by the county fiscal body of the county where the community
39 mental health center maintains its corporate mailing address. The
40 county fiscal body representative must reside in one (1) of the counties
41 in the community mental health center's primary service area.

42 SECTION 5. IC 12-29-2-16 IS AMENDED TO READ AS
43 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. A community
44 mental health center that is certified by the division of mental health
45 and addiction shall provide an annual report to the fiscal body of each
46 county **located in the community mental health center's primary**
47 **service area. from which the center receives funding under this**
48 ~~chapter.~~

49 SECTION 6. IC 12-29-2-20 IS AMENDED TO READ AS
50 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. (a) **The county**
51 **payment for operations of a community mental health center shall**

1 **be paid by the county treasurer to the division as described in**
 2 **section 2 of this chapter.**

3 **(b) To the extent that money is appropriated by a county for**
 4 **purposes allowed under section 1.2(b)(1) of this chapter or is no**
 5 **longer required or requested for programs under section 2 of this**
 6 **chapter**, on the first Monday in October, the county auditor shall
 7 certify to:

8 (1) the division of mental health and addiction, for a community
 9 mental health center; and

10 (2) the president of the board of directors of each community
 11 mental health center;

12 the amount of money that will be provided to the community mental
 13 health center under this chapter.

14 ~~(b)~~ **(c)** The county payment to the community mental health center
 15 shall be paid by the county treasurer to the treasurer of each community
 16 mental health center's board of directors in the following manner:

17 (1) One-half (1/2) of the county payment to the community mental
 18 health center shall be made on the second Monday in July.

19 (2) One-half (1/2) of the county payment to the community mental
 20 health center shall be made on the second Monday in December.

21 ~~(c)~~ **(d)** A county making a payment under this section or from other
 22 county sources to a community mental health center that qualifies as a
 23 community mental health center disproportionate share provider under
 24 IC 12-15-16-1 shall certify that the payment represents expenditures
 25 eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and
 26 42 CFR 433.51. The office shall assist a county in making this
 27 certification.

28 ~~(d)~~ **(e)** Payments by the county fiscal body:

29 (1) must be in the amounts:

30 (A) determined by sections 2 through 5 of this chapter; and

31 (B) authorized by sections 1.2 and 13 of this chapter; and

32 (2) are in place of grants from agencies supported within the
 33 county solely by county tax money.

34 SECTION 7. IC 12-29-4 IS ADDED TO THE INDIANA CODE AS
 35 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 36 PASSAGE]:

37 **Chapter 4. SEA 350-2008 Moratorium**

38 **Sec. 1. As used in this chapter, "restricted rules" means the**
 39 **rules that the United States Secretary of Health and Human**
 40 **Services is restricted from implementing under the congressional**
 41 **moratorium enacted as part of H.R. 2206 (Iraq War Supplement;**
 42 **May 25, 2007), including the following:**

43 **(1) The proposed rule published on January 18, 2007, in**
 44 **volume 72 of the Federal Register (relating to 42 CFR, parts**
 45 **433, 447, and 457).**

46 **(2) The final form of the proposed rule described in**
 47 **subdivision (1) as published in volume 72 of the Federal**
 48 **Register on May 29, 2007.**

49 **Sec. 2. Notwithstanding any other law, the additions and**
 50 **amendments to the Indiana Code set forth in SEA 350-2008 are**
 51 **applicable only to the extent that:**

- 1 **(1) the congressional moratorium on the implementation of**
- 2 **the restricted rules by the United States Secretary of Health**
- 3 **and Human Services is not extended; and**
- 4 **(2) the restricted rules are implemented.**
- 5 **SECTION 8. An emergency is declared for this act.**
 (Reference is to ESB 350 as printed February 22, 2008.)

Conference Committee Report
on
Engrossed Senate Bill 350

Signed by:

Senator Lawson C
Chairperson

Representative Goodin

Senator Broden

Representative Noe

Senate Conferees

House Conferees