

Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 350

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-15-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A provider that is an acute care hospital licensed under IC 16-21, a state mental health institution under IC 12-24-1-3, or a private psychiatric institution licensed under IC 12-25 is a disproportionate share provider if the provider meets either of the following conditions:

(1) The provider's Medicaid inpatient utilization rate is at least one (1) standard deviation above the mean Medicaid inpatient utilization rate for providers receiving Medicaid payments in Indiana. However, the Medicaid inpatient utilization rate of providers whose low income utilization rate exceeds twenty-five percent (25%) must be excluded in calculating the statewide mean Medicaid inpatient utilization rate.

(2) The provider's low income utilization rate exceeds twenty-five percent (25%).

(b) An acute care hospital licensed under 16-21 is a municipal disproportionate share provider if the hospital:

(1) has a Medicaid utilization rate greater than one percent (1%);
and

(2) is established and operated under IC 16-22-2 or IC 16-23.

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- (c) A community mental health center: ~~that:~~
 - (1) **that** is identified in IC 12-29-2-1;
 - (2) ~~receives funding under: for which a county provides funds under:~~
 - (A) IC 12-29-1-7(b) before January 1, 2004; or
 - (B) ~~IC 12-29-2-20(e)~~ **IC 12-29-2-20(d)** after December 31, 2003;

or from other county sources; and

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

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

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

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

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

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

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

- (1) produce payments to each hospital licensed under IC 16-21

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that qualifies as a disproportionate share provider under IC 12-15-16-1(a); and

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

The trustees and a municipal health and hospital corporation are not required to make intergovernmental transfers under this section. The trustees and a municipal health and hospital corporation may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

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

(e) A county making a payment under:

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

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

or from other county sources to a community mental health center qualifying as a community mental health center disproportionate share provider shall certify that the payment represents expenditures that are eligible for federal financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Except as provided in subsection (h), the county shall pay to the division of mental health and addiction the part of the funding determined under subsection (b) that is appropriated solely for funding the operations of a community health center. The funding required under this section for operations of a community health

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center shall be paid by the county to the division of mental health and addiction. These funds shall be used solely for satisfying the non-federal share of medical assistance payments to community mental health centers serving the county for:

- (1) allowable administrative services; and
- (2) community mental health rehabilitation services.

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

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

(f) The division of mental health and addiction shall ensure that the non-federal share of funding received from a county under this program is applied only for matching federal funds for the designated community mental health centers to the extent a center is eligible to receive county funding under IC 12-21-2-3(a)(5)(E).

(g) The division of mental health and addiction:

- (1) shall first apply state funding to a community mental health center's non-federal share of funding under this program; and
- (2) may next apply county funding received under IC 12-29-2-2 to any remaining non-federal share of funding for the community mental health center.

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

(h) The health and hospital corporation of Marion County created by IC 16-22-8-6 may make payments to the division for the

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operation of a community mental health center as described in this chapter.

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

- (1) is certified by the division of mental health and addiction; **and**
- ~~(2) receives county funding from one (1) or more counties under this chapter; and~~
- ~~(3)~~ **(2)** is not administered by a hospital licensed under IC 16-21-2;

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

(b) A community mental health center that:

- (1) is certified by the division of mental health and addiction; **and**
- ~~(2) receives county funding from one (1) or more counties under this chapter; and~~
- ~~(3)~~ is administered by a hospital licensed under IC 16-21-2;

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

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

SECTION 6. IC 12-29-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. (a) **The county payment for operations of a community mental health center shall be paid by the county treasurer to the division as described in section 2 of this chapter.**

(b) **To the extent that money is appropriated by a county for purposes allowed under section 1.2(b)(1) of this chapter or is no longer required or requested for programs under section 2 of this**

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chapter, on the first Monday in October, the county auditor shall certify to:

- (1) the division of mental health and addiction, for a community mental health center; and
- (2) the president of the board of directors of each community mental health center;

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

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

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

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

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

- (1) must be in the amounts:
 - (A) determined by sections 2 through 5 of this chapter; and
 - (B) authorized by sections 1.2 and 13 of this chapter; and
- (2) are in place of grants from agencies supported within the county solely by county tax money.

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

Chapter 4. SEA 350-2008 Moratorium

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

- (1) The proposed rule published on January 18, 2007, in volume 72 of the Federal Register (relating to 42 CFR, parts 433, 447, and 457).
- (2) The final form of the proposed rule described in subdivision (1) as published in volume 72 of the Federal

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Register on May 29, 2007.

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

(1) the congressional moratorium on the implementation of the restricted rules by the United States Secretary of Health and Human Services is not extended; and

(2) the restricted rules are implemented.

SECTION 8. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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