

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1176

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 5-10-8-7.3, AS AMENDED BY P.L.229-2011, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 7.3. (a) As used in this section, "covered individual" means an individual who is:

- (1) covered under a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or
- (2) entitled to services under a contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

(b) As used in this section, "early intervention services" means services provided to a first steps child under IC 12-12.7-2 and 20 U.S.C. 1432(4).

(c) As used in this section, "first steps child" means an infant or toddler from birth through two (2) years of age who is enrolled in the Indiana first steps program and is a covered individual.

(d) As used in this section, "first steps program" refers to the program established under IC 12-12.7-2 and 20 U.S.C. 1431 et seq. to meet the needs of:

- (1) children who are eligible for early intervention services; and
- (2) their families.

The term includes the coordination of all available federal, state, local, and private resources available to provide early intervention services within Indiana.

HEA 1176 — Concur



(e) As used in this section, "health benefits plan" means a:

- (1) self-insurance program established under section 7(b) of this chapter to provide group health coverage; or
- (2) contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

(f) A health benefits plan that provides coverage for early intervention services shall reimburse the first steps program a monthly fee established by the division of disability and rehabilitative services established by IC 12-9-1-1. **Except when the monthly fee is less than the product determined under IC 12-12.7-2-23(b)**, the monthly fee shall be provided instead of claims processing of individual claims.

(g) The reimbursement required under subsection (f) may not be applied to any annual or aggregate lifetime limit on the first steps child's coverage under the health benefits plan.

(h) The first steps program may pay required deductibles, copayments, or other out-of-pocket expenses for a first steps child directly to a provider. A health benefits plan shall apply any payments made by the first steps program to the health benefits plan's deductibles, copayments, or other out-of-pocket expenses according to the terms and conditions of the health benefits plan.

(i) A health benefits plan may not require authorization for services specified in the covered individual's individualized family service plan, if those services are a covered benefit under the plan once the individualized family service plan is signed by a physician.

(j) The department of insurance shall adopt rules under IC 4-22-2 to ensure compliance with this section.

SECTION 2. IC 12-12.7-2-3, AS AMENDED BY SEA 238-2020, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) As used in this chapter, "early intervention services" means developmental services that meet the following conditions:

- (1) Are provided under public supervision.
- (2) Are selected in collaboration with the parents.
- (3) Are provided at no cost, except when federal or state law provides for a system of payments by the families, including a sliding fee schedule.
- (4) Are designed to meet the:
 - (A) developmental needs of infants and toddlers with disabilities in at least one (1) of the areas specified in section 4(a)(1) of this chapter; and
 - (B) needs of the family to assist appropriately the development of the infant or toddler as identified by the individualized



family service plan adopted in accordance with 20 U.S.C. 1436.

- (5) Meet all required state and federal standards.
- (6) Are provided by qualified personnel, including the following:
 - (A) Early childhood special educators, early childhood educators, and special educators, including teachers of children with:
 - (i) hearing impairments, including deafness; and
 - (ii) vision impairments, including blindness.
 - (B) Speech and language pathologists and audiologists.
 - (C) Occupational therapists.
 - (D) Physical therapists.
 - (E) Psychologists.
 - (F) Social workers.
 - (G) Nurses.
 - (H) Nutritionists.
 - (I) Family therapists.
 - (J) Orientation and mobility specialists.
 - (K) Pediatricians and other physicians for diagnostic and evaluation purposes.
 - (L) Registered dietitians.
 - (M) Vision specialists, including ophthalmologists and optometrists.
- (7) To the maximum extent appropriate, are provided in natural environments, including the home and community settings in which children without disabilities participate.
- (8) Are provided in conformity with an individualized family service plan adopted in accordance with 20 U.S.C. 1436.
- (b) The term includes the following services:
 - (1) Family training, counseling, and home visits.
 - (2) Special instruction.
 - (3) Speech and language pathology, audiology, and sign language and cued language services.
 - (4) Occupational therapy.
 - (5) Physical therapy.
 - (6) Psychological services.
 - (7) Service coordination services.
 - (8) Medical services only for diagnostic, evaluation, or consultation purposes.
 - (9) Early identification, screening, and assessment services.
 - (10) Other health services necessary for an infant or a toddler to benefit from the services.



(11) Vision services.

(12) Supportive technology services.

(13) Transportation and related costs that are necessary to enable an infant or a toddler and the infant's or toddler's family to receive early intervention services.

(14) Habilitative services that are necessary to enable an infant or toddler to keep, learn, improve, or recover skills and functioning for daily living, including skills and functioning affected by a developmental delay.

~~(14)~~ **(15)** Assistive technology devices and services.

~~(15)~~ **(16)** Nursing services.

~~(16)~~ **(17)** Nutrition services.

~~(17)~~ **(18)** Social work services.

(c) This section does not provide an exhaustive list of the services that may constitute early intervention services or the qualified personnel that may provide early intervention services. Nothing in this section prohibits an individualized family service plan from including another type of:

(1) service as an early intervention service if the service meets the criteria set forth in subsection (a); or

(2) personnel that may provide early intervention services as long as the personnel meet the requirements of 34 CFR 303.31.

SECTION 3. IC 12-12.7-2-9, AS ADDED BY P.L.93-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. (a) The governor shall make the initial appointments under section 8 of this chapter with staggered terms and subsequent appointments for terms of three (3) years. **However, a member shall continue to serve until a successor is appointed.**

(b) A council member may be reappointed for succeeding terms.

SECTION 4. IC 12-12.7-2-10, AS ADDED BY P.L.93-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. (a) The ~~governor~~ **council** shall

~~(1) designate a member of the council to serve as the chairperson of the council; or~~

~~(2) require the council to designate~~ **annually elect** a chairperson **and vice chairperson** from within its membership.

(b) A member of the council who is a representative of the division may not serve as chairperson **or vice chairperson** of the council.

(c) A chairperson **and vice chairperson** may be ~~reappointed~~ **reelected** for succeeding terms.

SECTION 5. IC 12-12.7-2-11, AS ADDED BY P.L.93-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2020]: Sec. 11. Any of the following may call a meeting of the council:

- (1) The governor.
- (2) (1) The chairperson of the council.

(2) The vice chairperson, if the chairperson is not available.

SECTION 6. IC 12-12.7-2-14, AS ADDED BY P.L.93-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14. The council ~~may~~ **shall** prepare and approve a budget using funds under this chapter to do the following:

- (1) Conduct hearings and forums.
- (2) Reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties, including child care for the members who are representatives of parents.
- (3) (2) Pay compensation per diem and travel and other expenses as provided in section 14.5 of this chapter to a member members of the council. if the member is not employed or is required to forfeit wages from other employment when absent from the other employment due to the performance of council business.
- (4) (3) Hire the staff and obtain services that are necessary to carry out the council's functions.

SECTION 7. IC 12-12.7-2-14.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 14.5. (a) Any member of the council who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.**

(b) Any member of the council who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Any member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and



travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

SECTION 8. IC 12-12.7-2-17, AS AMENDED BY P.L.108-2019, SECTION 192, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 17. (a) As used in this section, "per unit of treatment" means an increment of fifteen (15) minutes for services provided to an individual.

(b) A family shall participate in the cost of programs and services provided under this chapter to the extent allowed by federal law according to a cost participation schedule established by the division. The cost participation schedule must be based on the federal income poverty level and set forth a copayment per unit of treatment and a maximum monthly cost share amount.

(c) A cost participation plan used by the division for families to participate in the cost of the programs and services provided under this chapter:

- (1) must:
 - (A) be based on income and ability to pay;
 - (B) provide for a review of a family's cost participation amount:
 - (i) annually; and
 - (ii) within thirty (30) days after the family reports a reduction in income; and
 - (C) allow the division to waive a required copayment if other medical expenses or personal care needs expenses for any member of the family reduce the level of income the family has available to pay copayments under this section;
- (2) may allow a family to voluntarily contribute payments that exceed the family's required cost participation amount;
- (3) must require the family to allow the division access to all health care coverage information that the family has concerning the infant or toddler who is to receive services;
- (4) must require families to consent to the division billing third party payors for early intervention services provided;
- (5) may allow the division to waive the billing to third party payors if the family is able to demonstrate financial or personal hardship on the part of the family member; and
- (6) must require the division to waive the family's monthly copayments in any month for those services for which it receives payment from the family's health insurance coverage.



(d) Funds received through a cost participation plan under this section must be used to fund programs described in section 18 of this chapter.

(e) Before the division may make a change to the cost participation schedule, the division must do the following:

- (1) Release the proposed changes to the cost participation schedule for public comment no later than September 1 in the year before the change will be effective.**
- (2) Allow a sixty (60) day public comment period on the proposed changes to the cost participation schedule.**
- (3) Implement any change to the cost participation schedule no earlier than July 1 of the year following the release of the proposed change under subdivision (1).**

SECTION 9. IC 12-12.7-2-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 23. (a) As used in this section, "covered plan" means a plan providing coverage for early intervention services under IC 5-10-8-7.3, IC 21-38-6-1, or IC 27-8-27-6.**

(b) The division may not be paid by a covered plan for early intervention services provided under this chapter at a rate that is less than the product of the following:

- (1) The covered plan's CPT code (as defined by 27-1-37.5-3) rate for each service provided; multiplied by**
- (2) The frequency of each service.**

SECTION 10. IC 21-38-6-1, AS AMENDED BY P.L.229-2011, SECTION 242, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: **Sec. 1. (a) An employee health plan that provides coverage for early intervention services shall reimburse the first steps program a monthly fee established by the division of disability and rehabilitative services. Except when the monthly fee is less than the product determined under IC 12-12.7-2-23(b), the monthly fee shall be provided instead of claims processing of individual claims.**

(b) An employee health plan may not require authorization for services specified in the covered individual's individualized family service plan, if those services are a covered benefit under the plan once the individualized family service plan is signed by a physician.

(c) The department of insurance shall adopt rules under IC 4-22-2 to ensure compliance with this section.

SECTION 11. IC 27-8-5.8-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1, 2020]: **Sec. 5. (a) As used in this section, "health plan information card" means a card that:**

- (1) an insurer of an accident and sickness insurance policy; or**
- (2) a third party administrator of a self-insured plan;**

provides to an individual so that the individual may present the card to establish the eligibility of the individual or the individual's dependents to receive health benefits or services.

(b) Subject to subsection (c), a health plan information card must indicate that the health benefits and services are provided by:

- (1) an insurer of an accident and sickness insurance policy; or**
- (2) a third party administrator of a self-insured plan.**

(c) Subsection (b) applies only to a health plan information card issued:

- (1) initially to a new insured; or**
- (2) to an insured at the time of the insured's policy renewal;**

after June 30, 2020.

(d) The department of insurance shall adopt rules under IC 4-22-2 to ensure compliance with this section.

SECTION 12. IC 27-8-5.8-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 6. (a) As used in this section, "insurer" means:**

- (1) an issuer of an accident and sickness insurance policy; or**
- (2) a third party administrator of health benefits and services under an accident and sickness insurance policy.**

(b) The electronic data base by which an insurer allows an insured or a provider to verify an insured's coverage or benefits under an accident and sickness insurance policy issued or administered by the insurer must include the following information for each insured:

- (1) Whether health benefits and services under the accident and sickness insurance policy are provided by:**

(A) the issuer of the accident and sickness insurance policy;
or

(B) a third party administrator.

- (2) Whether the accident and sickness insurance policy is subject to state or federal regulation.**

(c) The department of insurance shall adopt rules under IC 4-22-2 to ensure compliance with this section.

SECTION 13. IC 27-8-27-6, AS AMENDED BY P.L.229-2011, SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: **Sec. 6. (a) A health insurance plan that provides coverage for early intervention services shall reimburse**



the first steps program a monthly fee established by the division of disability and rehabilitative services. **Except when the monthly fee is less than the product determined under IC 12-12.7-2-23(b)**, the monthly fee shall be provided instead of claims processing of individual claims.

(b) A health insurance plan may not require authorization for services specified in the covered individual's individualized family service plan, if those services are a covered benefit under the plan once the individualized family service plan is signed by a physician.

(c) The department of insurance shall adopt rules under IC 4-22-2 to ensure compliance with this section.

SECTION 14. IC 27-13-9-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 6. (a) As used in this section, "health plan information card" means a card that:**

(1) a health maintenance organization; or

(2) a third party administrator of a self-insured plan;

provides to an individual so that the individual may present the card to establish the eligibility of the individual or the individual's dependents to receive benefits or health care services.

(b) A health plan information card must indicate that the benefits and health care services are provided by:

(1) a health maintenance organization; or

(2) a third party administrator.

(c) Subsection (b) applies only to a health plan information card issued:

(1) initially to an individual as a new enrollee; or

(2) to an individual at the time of the individual's renewal of enrollment;

in a health maintenance organization after June 30, 2020.

(d) The department of insurance shall adopt rules under IC 4-22-2 to ensure compliance with this section.

SECTION 15. IC 27-13-9-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 7. (a) The electronic data base by which a health maintenance organization or by which a third party administrator of benefits and health care services offered under a health maintenance organization contract allows an enrollee or a provider to verify an enrollee's coverage or benefits under a health maintenance organization contract must include the following information for each enrollee:**

(1) Whether benefits and health care services under the health



maintenance organization contract are provided by:

(A) the health maintenance organization; or

(B) a third party administrator.

(2) Whether the health maintenance organization contract is a self-funded or fully-funded plan.

(b) The department shall adopt rules under IC 4-22-2 to ensure compliance with this section.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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