



January 26, 2024

SENATE BILL No. 192

DIGEST OF SB 192 (Updated January 24, 2024 12:52 pm - DI 104)

Citations Affected: IC 12-15; IC 16-27; IC 25-26; IC 34-30.

Synopsis: Various health care matters. Provides that if a physician has entered into a provider agreement with the office of Medicaid policy and planning (office) or a managed care organization and the physician, subject to the provider agreement, provides emergency medical services to individuals participating in the state Medicaid program, the office or the managed care organization shall promptly compensate the physician for the services in accordance with an autopay list published by the office. Prohibits any delay in or denial of compensation to the physician unless the cause of the delay or denial is specifically provided for in: (1) the Medicaid managed care law; (2) an administrative rule adopted under the Medicaid managed care law; (3) the federal administrative rules on Medicaid managed care; or (4) the provider agreement. States that a home health agency is not required to conduct a tuberculosis test on a job applicant before the individual has contact with a patient. Repeals a statute that requires certain personal services agency employees or agents to complete a tuberculosis test. Authorizes the establishment of home health agency cooperative
(Continued next page)

Effective: July 1, 2024.

**Johnson T, Becker, Bohacek,
Ford J.D.**

January 9, 2024, read first time and referred to Committee on Health and Provider Services.
January 25, 2024, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

SB 192—LS 6838/DI 92



Digest Continued

agreements. (A similar law enacted in 2022 expired on July 1, 2023.) Makes statements and findings of the general assembly concerning home health agency cooperative agreements. Specifies that a home health agency may contract directly or indirectly through a network of home health agencies. Allows a pharmacist to administer an immunization that is recommended by the federal Centers for Disease Control and Prevention Advisory Committee on Immunization Practices to a group of individuals under a drug order, under a prescription, or according to a protocol approved by a physician if certain conditions are met. (Current law allows a pharmacist to administer specified immunizations to a group of individuals under a drug order, under a prescription, or according to a protocol approved by a physician if certain conditions are met.) Removes a provision allowing a pharmacist to administer pneumonia immunizations to individuals who are at least 50 years of age.

SB 192—LS 6838/DI 92



January 26, 2024

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

SENATE BILL No. 192

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

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

1 SECTION 1. IC 12-15-12-24 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2024]: **Sec. 24. (a) If:**
4 **(1) a physician has entered into a provider agreement with:**
5 **(A) the office; or**
6 **(B) a managed care organization;**
7 **under IC 12-15-11-4(a) for the provision of emergency**
8 **services; and**
9 **(2) the physician, subject to the provider agreement referred**
10 **to in subdivision (1), provides emergency services to**
11 **individuals participating in the state Medicaid program;**
12 **the office or the managed care organization shall promptly**
13 **compensate the physician for the emergency services in accordance**
14 **with the provider agreement. A managed care organization shall**
15 **reimburse the physician in accordance with an autopay list**

SB 192—LS 6838/DI 92



1 published by the office.

2 (b) A physician's compensation under subsection (a) shall not be

3 delayed due to the retrospective review of the medical services

4 provided or for any other reason unless the cause of the delay is

5 specifically provided for in:

6 (1) this article;

7 (2) a rule adopted under this article;

8 (3) 42 CFR 438; or

9 (4) the provider agreement referred to in subsection (a)(1).

10 (c) A physician shall not be denied compensation for emergency

11 services to which subsection (a) applies unless the cause of the

12 denial is specifically provided for in:

13 (1) this article;

14 (2) a rule adopted under this article;

15 (3) 42 CFR 438; or

16 (4) the provider agreement referred to in subsection (a)(1).

17 (d) A managed care organization:

18 (1) may not deny a claim solely because the claim code is not

19 included on the office's autopay list; and

20 (2) shall consider each claim based on the prudent layperson

21 standard.

22 SECTION 2. IC 16-27-1-19, AS ADDED BY P.L.117-2023,

23 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

24 JULY 1, 2024]: Sec. 19. A home health agency is not required to

25 conduct a preemployment physical **or a tuberculosis test** on a job

26 applicant before the individual has contact with a home health agency

27 patient.

28 SECTION 3. IC 16-27-4-15 IS REPEALED [EFFECTIVE JULY 1,

29 2024]. Sec. 15: An employee or agent of a personal services agency

30 who will have direct client contact must complete a tuberculosis test in

31 the same manner as required by the state department for licensed home

32 health agency employees and agents.

33 SECTION 4. IC 16-27-6 IS ADDED TO THE INDIANA CODE AS

34 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY

35 1, 2024]:

36 **Chapter 6. Home Health Agency Cooperative Agreements**

37 **Sec. 0.5. (a) The general assembly recognizes the importance**

38 **and necessity of home health services and home health agencies to**

39 **promote and protect the public's general health, safety, and**

40 **welfare.**

41 **(b) The general assembly finds it necessary and appropriate to**

42 **encourage home health agencies to cooperate, take certain actions,**



1 and enter into agreements that will facilitate improved quality of
 2 care and increase access to home health services even if the
 3 cooperation or actions may:

- 4 (1) be characterized as anticompetitive;
 5 (2) result in the acquisition, maintenance, or use of market
 6 power within the meaning of federal and state antitrust laws;
 7 or
 8 (3) otherwise have the effect of displacing competition.

9 (c) The general assembly believes that it is in the state's best
 10 interest to supplant state and federal antitrust laws with:

- 11 (1) the process provided in this chapter; and
 12 (2) active supervision from the secretary as set forth in this
 13 chapter.

14 (d) It is the intent of the general assembly that this chapter
 15 immunize, to the fullest extent possible, a person from all federal
 16 and state antitrust laws for any cooperation or action approved
 17 and supervised under this chapter. This intent is within the public
 18 policy of the state to facilitate the provision of quality and cost
 19 efficient health care services to patients.

20 Sec. 1. The definitions in IC 16-27-1 apply throughout this
 21 chapter.

22 Sec. 2. As used in this chapter, "office" refers to the office of the
 23 secretary of family and social services established by IC 12-8-1.5-1.

24 Sec. 3. As used in this chapter, "secretary" refers to the
 25 secretary of family and social services appointed under
 26 IC 12-8-1.5-2.

27 Sec. 4. Home health agencies may enter into cooperative
 28 agreements to carry out the following activities:

- 29 (1) To form and operate, either directly or indirectly, one (1)
 30 or more networks of home health agencies to arrange for the
 31 provision of health care services through such networks,
 32 including to contract either directly or indirectly through a
 33 network.
 34 (2) To contract, either directly or through such networks, with
 35 the office, or the office's contractors, to provide:
 36 (A) services to Medicaid beneficiaries; and
 37 (B) health care services in an efficient and cost effective
 38 manner on a prepaid, capitation, or other reimbursement
 39 basis.
 40 (3) To undertake other managed health care activities.

41 Sec. 5. (a) Any health care provider licensed under this title or
 42 IC 25 may apply to become a participating provider in the



1 networks described in this chapter provided the services the
 2 provider contracts for are within the lawful scope of the provider's
 3 practice.

4 (b) This section does not require a plan or network to provide
 5 coverage for any specific health care service.

6 Sec. 6. A home health agency may authorize any of the
 7 following, or any combination of the following, to undertake or
 8 effectuate any of the activities identified in this chapter:

9 (1) The Indiana Association for Home and Hospice Care, Inc.

10 (2) Any subsidiary of the corporation named in subdivision

11 (1).

12 Sec. 7. The secretary or the secretary's designee shall supervise
 13 and oversee the activities described in this chapter and may take
 14 the following actions:

15 (1) Gather relevant facts, collect data, conduct public
 16 hearings, invite and receive public comments, investigate
 17 market conditions, conduct studies, and review documentary
 18 evidence or require the home health agencies or their third
 19 party designee to do the same.

20 (2) Evaluate the substantive merits of any action to be taken
 21 by the home health agencies and assess whether the action
 22 comports with the standards established by the general
 23 assembly.

24 (3) Issue written decisions approving, modifying, or
 25 disapproving the recommended action, and explaining the
 26 reasons and rationale for the decision.

27 (4) Require home health agencies or their third party
 28 designees to report annually on the extent of the benefits
 29 realized by the actions taken under this chapter.

30 Sec. 8. The secretary may adopt rules under IC 4-22-2 to
 31 implement this chapter.

32 SECTION 5. IC 25-26-13-31.2, AS AMENDED BY P.L.56-2023,
 33 SECTION 239, IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2024]: Sec. 31.2. (a) A pharmacist may
 35 administer an immunization to an individual under a drug order or
 36 prescription.

37 (b) Subject to subsection (c), a pharmacist may administer
 38 immunizations for the following an immunization that is
 39 recommended by the federal Centers for Disease Control and
 40 Prevention Advisory Committee on Immunization Practices to a
 41 group of individuals under a drug order, under a prescription, or
 42 according to a protocol approved by a physician.



- 1 (1) Influenza:
 2 (2) Shingles (herpes zoster):
 3 (3) Pneumonia:
 4 (4) Tetanus, diphtheria, and acellular pertussis (whooping cough):
 5 (5) Human papillomavirus (HPV) infection:
 6 (6) Meningitis:
 7 (7) Measles, mumps, and rubella:
 8 (8) Varicella:
 9 (9) Hepatitis A:
 10 (10) Hepatitis B:
 11 (11) Haemophilus influenzae type b (Hib):
 12 (12) Coronavirus disease:
- 13 (c) A pharmacist may administer an immunization under subsection
 14 (b) if the following requirements are met:
- 15 (1) The physician specifies in the drug order, prescription, or
 16 protocol the group of individuals to whom the immunization may
 17 be administered.
 18 (2) The physician who writes the drug order, prescription, or
 19 protocol is licensed and actively practicing with a medical office
 20 in Indiana and not employed by a pharmacy.
 21 (3) The pharmacist who administers the immunization is
 22 responsible for notifying, not later than fourteen (14) days after
 23 the pharmacist administers the immunization, the physician who
 24 authorized the immunization and the individual's primary care
 25 physician that the individual received the immunization.
 26 (4) If the physician uses a protocol, the protocol may apply only
 27 to an individual or group of individuals who
 28 (A) ~~except as provided in clause (B);~~ are at least eleven (11)
 29 years of age. ~~or~~
 30 (B) ~~for the pneumonia immunization under subsection (b)(3);~~
 31 ~~are at least fifty (50) years of age.~~
 32 (5) Before administering an immunization to an individual
 33 according to a protocol approved by a physician, the pharmacist
 34 must receive the consent of one (1) of the following:
 35 (A) If the individual to whom the immunization is to be
 36 administered is at least eleven (11) years of age but less than
 37 eighteen (18) years of age, the parent or legal guardian of the
 38 individual.
 39 (B) If the individual to whom the immunization is to be
 40 administered is at least eighteen (18) years of age but has a
 41 legal guardian, the legal guardian of the individual.
 42 (C) If the individual to whom the immunization is to be



1 administered is at least eighteen (18) years of age but has no
2 legal guardian, the individual.

3 A parent or legal guardian who is required to give consent under
4 this subdivision must be present at the time of immunization.

5 (d) If the Indiana department of health or the department of
6 homeland security determines that an emergency exists, subject to
7 IC 16-41-9-1.7(a)(2), a pharmacist may administer any immunization
8 in accordance with:

- 9 (1) the requirements of subsection (c)(1) through (c)(3); and
10 (2) any instructions in the emergency determination.

11 (e) A pharmacist or pharmacist's designee shall provide
12 immunization data to the immunization data registry (IC 16-38-5) in a
13 manner prescribed by the Indiana department of health unless:

- 14 (1) the individual receiving the immunization;
15 (2) the parent of the individual receiving the immunization, if the
16 individual receiving the immunization is less than eighteen (18)
17 years of age; or
18 (3) the legal guardian of the individual receiving the
19 immunization, if a legal guardian has been appointed;

20 has completed and filed with the pharmacist or pharmacist's designee
21 a written immunization data exemption form, as provided in
22 IC 16-38-5-2.

23 (f) If an immunization is administered under a protocol, then the
24 name, license number, and contact information of the physician who
25 wrote the protocol must be posted in the location where the
26 immunization is administered. A copy of the protocol must be available
27 for inspection by the individual receiving the immunization.

28 (g) A pharmacist may administer an immunization that is provided
29 according to a standing order, prescription, or protocol issued under
30 this section or IC 16-19-4-11 by the state health commissioner or the
31 commissioner's designated public health authority who is a licensed
32 prescriber. If a pharmacist has received a protocol to administer an
33 immunization from a physician and that specific immunization is
34 covered by a standing order, prescription, or protocol issued by the
35 state health commissioner or the commissioner's designated public
36 health authority, the pharmacist must administer the immunization
37 according to the standing order, prescription, or protocol issued by the
38 state health commissioner or the commissioner's designated public
39 health authority.

40 SECTION 6. IC 34-30-2.1-207.4 IS ADDED TO THE INDIANA
41 CODE AS A NEW SECTION TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2024]: **Sec. 207.4. IC 16-27-6-0.5 (Concerning**



1 federal and state antitrust laws for certain activities under the
2 home health agency cooperative agreement law).



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 192, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 15.

Delete pages 2 through 8.

Page 9, delete lines 1 through 23.

Page 9, line 30, delete "physician" and insert "**emergency**".

Page 9, line 33, delete "professional" and insert "**emergency**".

Page 9, line 36, delete "professional" and insert "**emergency**".

Page 9, line 37, after "." insert "**A managed care organization shall reimburse the physician in accordance with an autopay list published by the office.**".

Page 10, line 5, delete "professional" and insert "**emergency**".

Page 10, between lines 10 and 11, begin a new paragraph and insert: "**(d) A managed care organization:**

(1) may not deny a claim solely because the claim code is not included on the office's autopay list; and

(2) shall consider each claim based on the prudent layperson standard.".

Page 10, delete lines 11 through 42.

Delete pages 11 through 12.

Page 13, delete lines 1 through 33.

Page 16, delete lines 2 through 42.

Page 19, delete lines 9 through 42.

Page 20, delete lines 1 through 23.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 192 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 9, Nays 0.

SB 192—LS 6838/DI 92

