

HOUSE BILL No. 1326

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-15; IC 12-21; IC 12-23-19-9; IC 12-29-2-2; IC 25-23-1-19.4.

Synopsis: Community mental health centers. Provides that: (1) licensed clinical social workers; (2) licensed mental health counselors; (3) licensed marriage and family therapists; and (4) licensed clinical addiction counselors; are eligible supervisors for addiction based intensive outpatient treatments under Medicaid. Defines a community mental health center as a governmental unit for purposes of required nonfederal share medical assistance payments under Title XIX of the Social Security Act. Requires the office of the secretary of family and social services (office) to consider any provider currently enrolled in the Medicaid program to be credentialed for the purpose of managed care credentialing that complies with the National Committee for Quality Assurance or its successor organization, if applicable. Requires the office to modify, not later than December 31, 2020, existing managed care Medicaid contracts to require a managed care entity to accept the active credential of a licensed individual who is credentialed by another managed care entity. Specifies that the credential of certain providers shall remain in place for a period of three years, regardless of where the provider is employed, if the credentialed individual is currently licensed to provide services under their scope of practice. Specifies that a recovery audit does not require documentation at the time of service for services provided in certain instances. Allows a supervising provider in a community mental health center to review documentation concerning: (1) a plan of treatment; or (2) specific treatment methods; at intervals not greater than 90 days. Exempts certain reviews and audits from documentation by signature. Provides that a consumer: (1) is not required to sign a plan of treatment in
(Continued next page)

Effective: July 1, 2020.

Kirchhofer

January 14, 2020, read first time and referred to Committee on Public Health.



Digest Continued

certain instances; and (2) must be conferred with by the practitioner responsible for the development of a plan of treatment when developing: (A) the contents of the plan of treatment; or (B) treatment recommendations. Requires the division of mental health and addiction (division) to: (1) ensure that no less than 75% of all nonobligated federal addiction based grant funding is used for direct clinical consumer treatment provided in a community mental health center; (2) not limit the ability of licensed professionals working in community mental health centers to make certain clinical decisions; and (3) not draw conclusions about certain: (A) clinical decisions; or (B) consumer decisions; during incident review or audits. Requires the division to provide best practice recommendations and to work with community mental health centers in a collaborative manner. Requires the division to amend certain administrative code provisions. Requires the division to develop a comprehensive appeals process under the mental health and addiction forensic treatment program not later than January 1, 2021. Specifies that there is no restriction on same day Medicaid billing for consumers referred to mental health and addiction forensic treatment services when the services occur on the same day. Provides advanced practice nurses with all of the supervisory rights and responsibilities of: (1) licensed physicians; and (2) health service provider in psychology (HSPP) psychologists; in certain instances. Repeals a provision concerning eligible providers for supervising treatment plans.



Introduced

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 BILL No. 1326

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 12-15-5-14.5 IS REPEALED [EFFECTIVE JULY
2 1, 2020]. ~~Sec. 14.5. The office shall include a:~~
3 ~~(1) licensed clinical social worker;~~
4 ~~(2) licensed mental health counselor;~~
5 ~~(3) licensed clinical addiction counselor; and~~
6 ~~(4) licensed marriage and family therapist;~~
7 as eligible providers for the supervision of a plan of treatment for a
8 patient's outpatient mental health or substance abuse treatment
9 services; if the individual holds at least a master's degree and the
10 supervision is in the scope of practice, education, and training of the
11 clinical social worker, mental health counselor, clinical addiction
12 counselor, or marriage and family therapist.
13 SECTION 2. IC 12-15-5-20 IS ADDED TO THE INDIANA CODE
14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2020]: **Sec. 20. If the office requires a supervisor for addiction**

2020

IN 1326—LS 7032/DI 123



1 based intensive outpatient treatment under this article, the
2 following supervisors are eligible supervisors:

- 3 (1) Licensed clinical social workers.
4 (2) Licensed mental health counselors.
5 (3) Licensed marriage and family therapists.
6 (4) Licensed clinical addiction counselors.

7 SECTION 3. IC 12-15-5-21 IS ADDED TO THE INDIANA CODE
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2020]: **Sec. 21. For purposes of required nonfederal share
10 medical assistance payments under Title XIX of the Social Security
11 Act, a community mental health center is defined as a
12 governmental unit.**

13 SECTION 4. IC 12-15-11-9, AS ADDED BY P.L.195-2018,
14 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2020]: Sec. 9. (a) The office shall implement a centralized
16 credentials verification organization and credentialing process that:

- 17 (1) uses a common application, as determined by provider type;
18 (2) issues a single credentialing decision applicable to all
19 Medicaid programs, except as determined by the office;
20 (3) recredentials and revalidates provider information not less
21 than once every three (3) years;
22 (4) requires attestation of enrollment and credentialing
23 information every six (6) months; and
24 (5) is certificated or accredited by the National Committee for
25 Quality Assurance or its successor organization.

26 (b) A managed care organization or contractor of the office may not
27 require additional credentialing requirements in order to participate in
28 a managed care organization's network. However, a contractor may
29 collect additional information from the provider in order to complete
30 a contract or provider agreement.

31 (c) A managed care organization or contractor of the office is not
32 required to contract with a provider.

33 (d) A managed care organization or contractor of the office shall:

- 34 (1) send representatives to meetings and participate in the
35 credentialing process as determined by the office; and
36 (2) not require additional credentialing information from a
37 provider if a non-network credentialed provider is used.

38 (e) Except when a provider is no longer enrolled with the office, a
39 credential acquired under this chapter is valid until recredentialing is
40 required.

41 (f) An adverse action under this section is subject to IC 4-21.5.

42 (g) **The office shall consider any provider that is currently**



1 enrolled in the Medicaid program to be credentialed and no
 2 additional credentialing requirement, beyond the credentialing
 3 required to be a Medicaid provider, may be placed upon a
 4 Medicaid provider by a managed care entity for the purpose of
 5 managed care credentialing compliance with the National
 6 Committee for Quality Assurance or its successor organization, if
 7 applicable.

8 (h) Not later than December 31, 2020, the office shall modify
 9 existing managed care Medicaid contracts to require a managed
 10 care entity to accept the active credential of a licensed individual
 11 who is credentialed by another managed care entity. The credential
 12 for the provider shall remain in place for a period of three (3)
 13 years, regardless of where the provider is employed, if the
 14 credentialed individual is currently licensed to provide services
 15 under their scope of practice.

16 ~~(g) (i) The office may adopt rules under IC 4-22-2 to implement this~~
 17 ~~section.~~

18 ~~(h) The office may adopt emergency rules to implement this section.~~
 19 ~~However, an emergency rule adopted under this section expires the~~
 20 ~~earlier of:~~

21 ~~(1) one (1) year after the rule was accepted for filing under~~
 22 ~~IC 4-22-2-37.1(e); or~~

23 ~~(2) June 30, 2019.~~

24 ~~This subsection expires July 1, 2019.~~

25 ~~(i) The office shall report the timeliness of determinations made~~
 26 ~~under this section to the legislative council in an electronic format~~
 27 ~~under IC 5-14-6 not later than December 31, 2018. This subsection~~
 28 ~~expires January 1, 2019.~~

29 SECTION 5. IC 12-15-13.5-6 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) Subject to subsection (b), a
 32 recovery audit shall not require documentation, at the time of
 33 service, for services provided by a community mental health center
 34 (as defined in IC 12-7-2-38) when the documentation is part of an
 35 ongoing plan of treatment or a documentation of specific treatment
 36 methods.

37 (b) The documentation described in subsection (a) shall be
 38 completed prior to Medicaid billing.

39 (c) Any supervising provider in a community mental health
 40 center is eligible to review documentation in order to certify a plan
 41 of treatment or review specific treatment methods at intervals not
 42 greater than ninety (90) days.



1 **(d) A supervising provider described in subsection (c) may**
 2 **review the documentation described in subsection (c) regardless of:**

3 **(1) whether the supervising provider is providing direct**
 4 **supervision; and**

5 **(2) the location where the service was provided.**

6 **A review described under this subsection must be documented by**
 7 **signature.**

8 **(e) A recovery audit may not require a consumer to sign a plan**
 9 **of treatment. However, the practitioner responsible for the**
 10 **development of the plan of treatment shall confer with the client**
 11 **when developing the plan's content or treatment recommendations.**

12 SECTION 6. IC 12-21-2-3, AS AMENDED BY P.L.243-2017,
 13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2020]: Sec. 3. The secretary or the secretary's designee shall
 15 do the following:

16 (1) Organize the division, create the appropriate personnel
 17 positions, and employ personnel necessary to discharge the
 18 statutory duties and powers of the division or a bureau of the
 19 division.

20 (2) Subject to the approval of the state personnel department,
 21 establish personnel qualifications for all deputy directors,
 22 assistant directors, bureau heads, and superintendents.

23 (3) Subject to the approval of the budget director and the
 24 governor, establish the compensation of all deputy directors,
 25 assistant directors, bureau heads, and superintendents.

26 (4) Study the entire problem of mental health, mental illness, and
 27 addictions existing in Indiana.

28 (5) Adopt rules under IC 4-22-2 for the following:

29 (A) Standards for the operation of private institutions that are
 30 licensed under IC 12-25 for the diagnosis, treatment, and care
 31 of individuals with psychiatric disorders, addictions, or other
 32 abnormal mental conditions.

33 (B) Licensing or certifying community residential programs
 34 described in IC 12-22-2-3.5 for individuals with serious
 35 mental illness (SMI), serious emotional disturbance (SED), or
 36 chronic addiction (CA) with the exception of psychiatric
 37 residential treatment facilities.

38 (C) Certifying community mental health centers to operate in
 39 Indiana.

40 (D) Establish exclusive geographic primary service areas for
 41 community mental health centers. The rules must include the
 42 following:



- 1 (i) Criteria and procedures to justify the change to the
2 boundaries of a community mental health center's primary
3 service area.
- 4 (ii) Criteria and procedures to justify the change of an
5 assignment of a community mental health center to a
6 primary service area.
- 7 (iii) A provision specifying that the criteria and procedures
8 determined in items (i) and (ii) must include an option for
9 the county and the community mental health center to
10 initiate a request for a change in primary service area or
11 provider assignment.
- 12 (iv) A provision specifying the criteria and procedures
13 determined in items (i) and (ii) may not limit an eligible
14 consumer's right to choose or access the services of any
15 provider who is certified by the division of mental health
16 and addiction to provide public supported mental health
17 services.
- 18 (6) Institute programs, in conjunction with an accredited college
19 or university and with the approval, if required by law, of the
20 commission for higher education, for the instruction of students
21 of mental health and other related occupations. The programs may
22 be designed to meet requirements for undergraduate and
23 postgraduate degrees and to provide continuing education and
24 research.
- 25 (7) Develop programs to educate the public in regard to the
26 prevention, diagnosis, treatment, and care of all abnormal mental
27 conditions.
- 28 (8) Make the facilities of the state institutions available for the
29 instruction of medical students, student nurses, interns, and
30 resident and fellow physicians under the supervision of the faculty
31 of any accredited school of medicine or osteopathy located in
32 Indiana or an accredited residency or fellowship training program
33 in connection with research and instruction in psychiatric
34 disorders.
- 35 (9) Institute a stipend program designed to improve the quality
36 and quantity of staff that state institutions employ.
- 37 (10) Establish, supervise, and conduct community programs,
38 either directly or by contract, for the diagnosis, treatment, and
39 prevention of psychiatric disorders.
- 40 (11) Adopt rules under IC 4-22-2 concerning the records and data
41 to be kept concerning individuals admitted to state institutions,
42 community mental health centers, or other providers.



- 1 (12) Compile information and statistics concerning the ethnicity
 2 and gender of a program or service recipient.
 3 (13) Establish standards for services described in IC 12-7-2-40.6
 4 for community mental health centers and other providers.
 5 (14) Provide that the standards for services provided by recovery
 6 residences for residential care and supported housing for chronic
 7 addiction, when used as a recovery residence, to:
 8 (A) be certified through an entity approved by the division to
 9 ensure adherence to standards determined by the National
 10 Alliance for Recovery Residences (NARR) or a similar entity;
 11 and
 12 (B) meet other standards established by the division under
 13 rules adopted under IC 4-22-2.
 14 **(15) Require the division to ensure that not less than**
 15 **seventy-five percent (75%) of all nonobligated federal**
 16 **addiction based grant funding is used for direct clinical**
 17 **consumer treatment provided in a community mental health**
 18 **center certified under subdivision (5)(C).**
 19 **(16) Prohibit the division from:**
 20 **(A) limiting the clinical decision making ability of licensed**
 21 **professionals operating in community mental health**
 22 **centers; or**
 23 **(B) drawing conclusions about clinical decisions or**
 24 **consumer decision making as part of a clinical or incident**
 25 **review or audit.**
 26 **(17) Require the division to:**
 27 **(A) provide best practice recommendations to community**
 28 **mental health centers; and**
 29 **(B) work with community mental health centers in a**
 30 **collaborative manner in order to ensure improved health**
 31 **outcomes as a part of reviews or audits.**
 32 SECTION 7. IC 12-21-5-7 IS ADDED TO THE INDIANA CODE
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 34 1, 2020]: **Sec. 7. (a) The following individuals shall be added to the**
 35 **list of direct care staff full-time equivalents listed under 440**
 36 **IAC 4.1-2-4(c)(1):**
 37 **(1) Behavioral health associate licensees.**
 38 **(2) Licensed addiction counselors.**
 39 **(3) Licensed clinical addiction counselors.**
 40 **(b) Any licensed prescriber with prescriptive authority shall be**
 41 **included in the ratio calculation percentage specified under 440**
 42 **IAC 4.1-2-4(c)(2).**



1 **(c) The division of mental health and addiction shall revise:**

2 **(1) 440 IAC 4.1-2-4(c)(1); and**

3 **(2) 440 IAC 4.1-2-4(c)(2);**

4 **to reflect subsections (a) and (b) not later than December 31, 2020.**

5 **(d) The publisher of the Indiana Administrative Code and**
6 **Indiana Register shall publish:**

7 **(1) 440 IAC 4.1-2-4(c)(1); and**

8 **(2) 440 IAC 4.1-2-4(c)(2);**

9 **to reflect any change made by the division of mental health and**
10 **addiction under subsection (c).**

11 SECTION 8. IC 12-23-19-9 IS ADDED TO THE INDIANA CODE
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2020]: **Sec. 9. (a) On or before January 1, 2021, the division of**
14 **mental health and addiction shall develop a comprehensive appeals**
15 **process under the mental health and addiction forensic treatment**
16 **services program when a corrective action plan is required.**

17 **(b) The appeals process described in subsection (a) shall not**
18 **restrict the ability of community mental health providers or**
19 **community mental health subcontractors under the mental health**
20 **and addiction forensic treatment services program from**
21 **continuing the treatment of referred clients during the period of**
22 **the corrective action plan.**

23 **(c) There is no restriction on same day Medicaid billing for**
24 **consumers referred to mental health and addiction forensic**
25 **treatment services when the services occur on the same day.**

26 SECTION 9. IC 12-29-2-2, AS AMENDED BY P.L.257-2019,
27 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2020]: **Sec. 2. (a) A county shall provide funding for the**
29 **operation of community mental health centers in the amount**
30 **determined under subsection (b) or, in the case of Marion County for**
31 **calendar year 2019, calendar year 2020, and calendar year 2021, the**
32 **amount determined under subsection (c).**

33 **(b) Except as provided in subsection (c), the amount of funding**
34 **under subsection (a) for a calendar year is equal to the following:**

35 **(1) The county's maximum appropriation amount for the operation**
36 **of community mental health centers determined under this**
37 **chapter in the previous calendar year, if the STEP THREE result**
38 **under the following formula is less than or equal to zero (0):**

39 **STEP ONE: Determine the amount of the certified levy for**
40 **funds subject to the civil maximum levy in the immediately**
41 **preceding calendar year minus the amount of credits granted**
42 **under IC 6-1.1-20.6 that were allocated to funds subject to the**



1 civil maximum levy in the immediately preceding calendar
 2 year, as determined by the department of local government
 3 finance under IC 6-1.1-20.6-11.
 4 STEP TWO: Determine the amount of the certified levy for
 5 funds subject to the civil maximum levy in the year prior to the
 6 immediately preceding calendar year minus the amount of
 7 credits granted under IC 6-1.1-20.6 that were allocated to
 8 funds subject to the civil maximum levy in the year prior to the
 9 immediately preceding calendar year, as determined by the
 10 department of local government finance under
 11 IC 6-1.1-20.6-11.
 12 STEP THREE: Determine the remainder of the STEP ONE
 13 amount minus the STEP TWO amount.
 14 (2) If the STEP THREE result under the formula in subdivision
 15 (1) is greater than zero (0), then the county's maximum
 16 appropriation amount for the operation of community mental
 17 health centers determined under this chapter in the previous
 18 calendar year, multiplied by the greater of:
 19 (A) one (1); or
 20 (B) the result of STEP SIX of the following formula:
 21 STEP ONE: Determine the assessed value growth quotient
 22 for the year under IC 6-1.1-18.5 minus one (1).
 23 STEP TWO: Determine the amount of the certified levy for
 24 funds subject to the civil maximum levy in the immediately
 25 preceding calendar year minus the amount of credits granted
 26 under IC 6-1.1-20.6 that were allocated to funds subject to
 27 the civil maximum levy in the immediately preceding
 28 calendar year, as determined by the department of local
 29 government finance under IC 6-1.1-20.6-11.
 30 STEP THREE: Determine the amount of the certified levy
 31 for funds subject to the civil maximum levy in the
 32 immediately preceding calendar year.
 33 STEP FOUR: Determine the result of the STEP TWO
 34 amount divided by the STEP THREE amount.
 35 STEP FIVE: Determine the product of the STEP ONE
 36 amount multiplied by the STEP FOUR result.
 37 STEP SIX: Determine the STEP FIVE amount plus one (1).
 38 The department of local government finance shall verify the maximum
 39 appropriation calculation under this subsection as part of the
 40 certification of the county's budget under IC 6-1.1-17. For taxes due
 41 and payable in 2020, the department of local government finance shall
 42 calculate the maximum appropriation under this subsection as if the



- 1 taxes were due and payable in 2019.
- 2 (c) This subsection applies only in calendar year 2019, calendar year
3 2020, and calendar year 2021. In the case of Marion County, the
4 amount of funding under subsection (a) for a calendar year is
5 determined under this subsection and is equal to the following:
- 6 (1) For calendar year 2019, the sum of:
7 (A) the actual amount of the appropriations by the county for
8 community mental health centers under this chapter in 2018;
9 plus
10 (B) the result of thirty-three percent (33%) multiplied by the
11 result of:
12 (i) the amount that would have, except for the application of
13 this subsection, applied to the county under subsection (b)
14 for calendar year 2019; minus
15 (ii) the actual amount of the appropriations by the county for
16 community mental health centers under this chapter in 2018.
- 17 (2) For calendar year 2020, the sum of:
18 (A) the actual amount of the appropriations by the county for
19 community mental health centers under this chapter in 2019;
20 plus
21 (B) the result of sixty-six percent (66%) multiplied by the
22 result of:
23 (i) the amount that would have, except for the application of
24 this subsection, applied to the county under subsection (b)
25 for calendar year 2020; minus
26 (ii) the actual amount of the appropriations by the county for
27 community mental health centers under this chapter in 2019.
- 28 (3) For calendar year 2021, the amount that would have, except
29 for the application of this subsection, applied to the county under
30 subsection (b) for calendar year 2021.
- 31 The department of local government finance shall verify the maximum
32 appropriation calculation under this subsection as part of the
33 certification of the county's budget under IC 6-1.1-17. This subsection
34 expires January 1, 2022.
- 35 (d) The funding provided by a county under this section shall be
36 used solely for:
37 (1) the operations of community mental health centers serving the
38 county; or
39 (2) contributing to the nonfederal share of medical assistance
40 payments to community mental health centers serving the county.
- 41 **(e) For the purposes of required nonfederal shared medical**
42 **assistance payments under Title XIX of the federal Social Security**



1 **Act, a community mental health center is defined as a**
 2 **governmental unit.**

3 SECTION 10. IC 25-23-1-19.4, AS AMENDED BY P.L.129-2018,
 4 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2020]: Sec. 19.4. (a) This section does not apply to certified
 6 registered nurse anesthetists.

7 (b) As used in this section, "practitioner" has the meaning set forth
 8 in IC 16-42-19-5. However, the term does not include the following:

9 (1) A veterinarian.

10 (2) An advanced practice registered nurse.

11 (3) A physician assistant.

12 (c) An advanced practice registered nurse shall operate:

13 (1) in collaboration with a licensed practitioner as evidenced by
 14 a practice agreement;

15 (2) by privileges granted by the governing board of a hospital
 16 licensed under IC 16-21 with the advice of the medical staff of the
 17 hospital that sets forth the manner in which an advanced practice
 18 registered nurse and a licensed practitioner will cooperate,
 19 coordinate, and consult with each other in the provision of health
 20 care to their patients; or

21 (3) by privileges granted by the governing body of a hospital
 22 operated under IC 12-24-1 that sets forth the manner in which an
 23 advanced practice registered nurse and a licensed practitioner will
 24 cooperate, coordinate, and consult with each other in the
 25 provision of health care to their patients.

26 **(d) For purposes of the Medicaid program, as defined in**
 27 **IC 12-15, an advanced practice registered nurse shall be provided**
 28 **all of the supervisory rights and responsibilities available to a**
 29 **licensed physician or a health service provider in psychology**
 30 **(HSPP) psychologist operating in a community mental health**
 31 **center certified under IC 12-21-2-3(5)(C), including prior**
 32 **authorization, if the rights and responsibilities are consistent with**
 33 **the scope of practice for an advanced practice registered nurse.**
 34 **The office of the secretary of family and social services shall file an**
 35 **amended state plan with the Centers for Medicare and Medicaid**
 36 **Services not later than December 31, 2020, to ensure compliance**
 37 **with this subsection.**

