Reprinted
February 24, 2017

HOUSE BILL No. 1493

DIGEST OF HB 1493 (Updated February 23, 2017 4:31 pm - DI 77)

Citations Affected: IC 12-10; IC 12-15; IC 16-18; IC 16-28.

Synopsis: Long term care matters. Requires a home and community based services program for individuals who are aged or disabled to include reimbursement for assisted living services in the Medicaid program. Requires the division of aging to report to the general assembly a plan to expand the scope and availability of home and community based services for individuals who are aged or disabled and requires the division to implement the plan. Prohibits the office of Medicaid policy and planning (office) from including individuals who receive nursing facility services in a risk based managed care program or a capitated managed care program. Requires the office to determine the amount of reimbursement payments that would have been reimbursed but for a reduction in reimbursement and use those dollars for the expansion of home and community based services. Establishes the home and community based expansion fund. Specifies circumstances in which a Medicaid reimbursement reduction must be suspended. Specifies the model to be used for Medicaid nursing facility service payments. Requires the office to do the following: (1) Provide public notice of at least one year before reducing nursing facility service reimbursements. (2) Review currently offered home health programs, develop additional programs, and report on the programs to the general assembly. Requires the state department of health to amend rules concerning residential care facilities to comply with federal law concerning the provision of home and community based services. Makes an appropriation.

Effective: July 1, 2017.

Brown T, Clere

January 18, 2017, read first time and referred to Committee on Public Health.
February 2, 2017, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.
February 21, 2017, reported — Do Pass.
February 23, 2017, read second time, amended, ordered engrossed.

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First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1493

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

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

SECTION 1. IC 12-10-11.5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 8. (a) To the extent permitted under federal law, the office shall reimburse under Medicaid for assisted living services in a home and community based services program for individuals who are aged or disabled.**

(b) If the division determines that a provider is out of compliance with state or federal home and community based setting requirements because of requirements of the provider's license, the division shall provide written guidance to the agency issuing the provider license in order to assist in the amendment of the licensure requirements to comply with federal and state home and community based setting requirements.

SECTION 2. IC 12-10-19 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2017]:

Chapter 19. Home and Community Based Services

Sec. 1. Before October 1, 2017, the division shall report to the general assembly in an electronic format under IC 5-14-6 a plan to expand the scope and availability of home and community based services for individuals who are aged and disabled. The report must include the following:

(1) Evaluation of the current system of services to determine which services provide the most appropriate use of resources.

(2) Study of the eligibility assessment process, including the function and financial assessment process, for home and community based services to determine how to streamline the process to allow access to services in a time frame similar to that of institutional care.

(3) Options for individuals to receive services and supports appropriate to meet the individual's needs in a cost effective and high quality manner that focuses on social and health outcomes.

(4) Evaluation of the adequacy of reimbursement rates to attract and retain a sufficient number of providers, including a plan to regularly and periodically increase reimbursement rates to address increased costs of providing services.

(5) Migration of individuals from the aged and disabled Medicaid waiver to amended Medicaid waivers, new Medicaid waivers, the state Medicaid plan, or other programs that offer home and community based services.

Sec. 2. The division shall, in consultation with the office, take any action necessary to implement the plan under section 1 of this chapter, including applying to the United States Department of Health and Human Services for approval to amend the aged and disabled Medicaid waiver, implement a new Medicaid waiver, or amend the state Medicaid plan.

Sec. 3. The division may adopt rules under IC 4-22-2 necessary to implement the plan and this chapter.

SECTION 3. IC 12-15-5-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 17. (a) The office may not include a Medicaid recipient who is eligible to:**

(1) participate in the Medicare program (42 U.S.C. 1395 et seq.); and

(2) receive nursing facility services;

in a risk based managed care program or capitated managed care

program.

(b) This section expires December 31, 2019.

SECTION 4. IC 12-15-14-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 6. (a) Beginning July 1, 2017, the office shall do the following:**

(1) Determine quarterly the difference in the amount reimbursed to a nursing facility and the amount of money that would have been reimbursed to the nursing facility if not for the statewide nursing facility payment reductions set forth in 405 IAC 1-14.6-26 or any similar subsequent reduction.

(2) Deposit the amount calculated under subdivision (1) into the fund established by section 7 of this chapter.

(3) Use the money deposited under subdivision (2) for the purpose of expanding home and community based services under the Medicaid program for individuals who are aged or disabled.

(b) The office shall use the money described in subsection (a)(3) only to pay for additional home and community based services for the aged and disabled offered in the Medicaid program by any of the following:

(1) Adding beneficiary slots to existing Medicaid waivers.

(2) Adding new beneficiary services to existing Medicaid waivers.

(3) Adding new, or augmenting existing, administrative services to:

(A) streamline functionality and financial eligibility processes; or

(B) provide beneficiaries information about the home and community based services options.

(4) Increasing provider reimbursement rates.

(5) Establishing new Medicaid waiver programs for the aged and disabled.

(c) The office shall suspend any statewide reduction on nursing facility reimbursement payments upon the office's filing of a state plan amendment that reduces payments permitted by section 1 of this chapter. The office may not lift the suspension until the office does the following:

(1) Reviews the nursing facility payment methodology on a per facility and aggregate basis, comparing the costs for Medicaid nursing facility services deemed allowable by the office and the actual costs incurred by the nursing facility.

(2) Prepares and submits a written plan to the general assembly in an electronic format under IC 5-14-6 to address payments to nursing facilities based upon the review in subdivision (1).

SECTION 5. IC 12-15-14-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 7. (a) The home and community based expansion fund is created for the purpose of funding the expansion of home and community based services in the Medicaid program in Indiana as described in section 6 of this chapter. The fund shall be administered by the office.**

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investment shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Money in the fund is continually appropriated for purposes of the fund.

SECTION 6. IC 12-15-14-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 8. (a) The office shall use the RUG-IV, 48-Group model for payment of nursing facility services.**

(b) Beginning July 1, 2018, the office may implement an end of therapy reclassification methodology in the RUG-IV, 48-Group model for payment of nursing facility services.

(c) Before the office changes a health facility service reimbursement that results in a reduction in reimbursement, the office shall provide public notice of at least one (1) year. The public notice under this subsection must include the fiscal impact of the proposed reimbursement change.

SECTION 7. IC 12-15-34-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 15. (a) Before January 1, 2018, the office shall review currently offered programs and develop additional funded programs for home health agencies participating in the Medicaid program. In developing a program under this section, the office shall focus on programs for home health agencies that do any of the following:**

(1) Provide incentives to home health agencies that meet

established quality outcome and performance metrics.

(2) Ensure that there are a sufficient number of home health agencies to serve the population in need of home health services.

(b) Not later than January 1, 2018, the office shall report the office's review and development of programs under subsection (a) to the general assembly in an electronic format under IC 5-14-6.

(c) If the office determines an additional funding program is feasible, the office shall implement the program.

(d) This section expires December 31, 2018.

SECTION 8. IC 16-18-2-317.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 317.7. "Residential care facility", for purposes of IC 16-28-2, means an entity licensed under IC 16-28 and registered as a housing with services establishment under IC 12-10-15.**

SECTION 9. IC 16-28-2-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 11. The state department shall amend rules concerning the licensure of a residential care facility to comply with federal law and regulation concerning the provision of home and community based services in the Medicaid program in order for a residential care facility to qualify as a home and community based services provider.**

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1493, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, delete "any" and insert "**the office shall reimburse under Medicaid for assisted living services in a**".

Page 1, line 5, delete "must include" and insert "**.**".

Page 1, delete line 6.

Page 4, line 9, after "services" insert "**in the Medicaid program**".

Page 5, line 39, delete "a health care facility that" and insert "**an entity licensed under IC 16-28 and registered as a housing with services establishment under IC 12-10-15.**".

Page 5, delete lines 40 through 42.

Page 6, delete lines 1 through 5.

Page 6, line 11, after "services" insert "**in the Medicaid program**".

Page 6, line 26, strike "July 2, 2015." and insert "**July 1, 2017.**".

Page 8, delete lines 13 through 42, begin a new paragraph and insert:

"SECTION 13. IC 16-28-2.5-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 6.5. The state department may approve a construction permit, a new or amended license to operate, a transfer of comprehensive care beds, or Medicaid certification for a comprehensive care health facility for any of the following:**

(1) A replacement facility, if the comprehensive care health facility that is being replaced by the replacement facility:

(A) will no longer be licensed as a comprehensive care health facility sixty (60) days after the replacement facility obtains a license from the state department; and

(B) transfers any of the comprehensive care beds, including the certification status of the beds, to the replacement facility.

(2) An existing comprehensive care health facility adding comprehensive care beds, if the additional comprehensive care beds are obtained through a written agreement with another comprehensive care health facility that has provided notice of closure under 42 CFR 483.70, or any successor regulation or law. The existing comprehensive care health facility obtaining comprehensive care beds or Medicaid certification of comprehensive care beds from the closing

comprehensive care health facility shall take all necessary actions to add the obtained comprehensive care beds or Medicaid certification of comprehensive care beds not later than one (1) year after the closure of the closing comprehensive care health facility.

(3) The licensure and Medicaid certification of a new comprehensive care health facility, if a person has applied to construct at least one (1) new comprehensive care health facility and:

(A) the person submitting the application has obtained through a written agreement with at least two (2) existing comprehensive care health facilities any of the existing comprehensive care health facilities' beds, including the certification status of the comprehensive care beds that will be transferred to the applicant's new comprehensive care health facility;

(B) the existing comprehensive care health facilities that will transfer comprehensive care beds, including the certification status of the comprehensive care beds, to the applicant's new comprehensive care health facility may no longer be licensed as a comprehensive care health facility sixty (60) days after the applicant obtains a license from the state department; and

(C) unless granted an exception by both the state department and the office of Medicaid policy and planning, if an existing comprehensive care health facility seeking to transfer comprehensive care beds is located in a medically underserved area, as designated by the federal Health Resources & Services Administration, at least one (1) of the new comprehensive care health facilities constructed by the applicant must be constructed within five (5) minutes drive time or five (5) miles of the existing comprehensive care health facility that is located in the medically underserved area.

A person may submit an application to construct more than one (1) new comprehensive care health facility if the number of existing comprehensive care health facilities that would close under clause (B) is greater than the number of new comprehensive care health facilities to be constructed.".

Page 9, delete lines 1 through 26.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1493 as introduced.)

KIRCHHOFER

Committee Vote: yeas 9, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1493, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB1493 as printed February 3, 2017.)

BROWN T

Committee Vote: Yeas 17, Nays 5

HOUSE MOTION

Mr. Speaker: I move that House Bill 1493 be amended to read as follows:

Page 3, line 2, delete "June 30, 2022." and insert "**December 31, 2019.**".

Page 4, delete lines 34 through 42.

Page 5, delete lines 1 through 17.

Page 5, line 33, after "in" insert "**an**".

Page 6, delete lines 9 through 42.

Delete pages 7 through 13.

Renumber all SECTIONS consecutively.

(Reference is to HB 1493 as printed February 21, 2017.)

BROWN T