

**Proposed Rule**  
LSA Document #21-431

DIGEST

Amends [410 IAC 37-1-5](#), [410 IAC 37-1-7](#), and [410 IAC 37-1-8](#) to update definitions. Amends [410 IAC 37-1-11](#) to remove the requirement for a copay for veterans who participate in the grants for the hyperbaric oxygen treatment pilot program. Amends [410 IAC 37-1-13](#) to remove the requirement that patient health improvement be a condition for approval of payment for treatment under the hyperbaric oxygen treatment pilot program, to remove the requirement that the Indiana department of veterans' affairs receive pretreatment and posttreatment evaluation documentation as a condition for approval of payment for hyperbaric oxygen treatment, and to extend the program to the expiration date set by statute. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[410 IAC 37-1-5](#); [410 IAC 37-1-7](#); [410 IAC 37-1-8](#); [410 IAC 37-1-11](#); [410 IAC 37-1-13](#)

SECTION 1. [410 IAC 37-1-5](#) IS AMENDED TO READ AS FOLLOWS:

**[410 IAC 37-1-5](#) "Posttraumatic stress disorder" defined**

**Authority:** [IC 10-17-13.5-6](#)

**Affected:** [IC 10-17-13.5](#)

Sec. 5. **As used in [IC 10-17-13.5](#)**, "posttraumatic stress disorder" means a mental health condition diagnosed by a qualified medical professional and satisfying the diagnostic criteria established by the fifth edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Health Disorders (DSM-5).

(Indiana Department of Health; [410 IAC 37-1-5](#); filed Sep 20, 2018, 3:17 p.m.: [20181017-IR-410170564FRA](#))

SECTION 2. [410 IAC 37-1-7](#) IS AMENDED TO READ AS FOLLOWS:

**[410 IAC 37-1-7](#) "Service related event" defined**

**Authority:** [IC 10-17-13.5-6](#)

**Affected:** [IC 10-17-13.5](#)

Sec. 7. **As used in [IC 10-17-13.5](#)**, "service related event" means an event that:

- (1) occurred in the performance of the veteran's professional duties as an active or reserve member of the U.S. Armed Forces; and
- (2) has been attested to by a medical professional as having caused the veteran's traumatic brain injury or posttraumatic stress disorder.

(Indiana Department of Health; [410 IAC 37-1-7](#); filed Sep 20, 2018, 3:17 p.m.: [20181017-IR-410170564FRA](#))

SECTION 3. [410 IAC 37-1-8](#) IS AMENDED TO READ AS FOLLOWS:

**[410 IAC 37-1-8](#) "Traumatic brain injury" defined**

**Authority:** [IC 10-17-13.5-6](#)

**Affected:** [IC 10-17-13.5](#)

Sec. 8. **As used in [IC 10-17-13.5](#)**, "traumatic brain injury" means a medical condition characterized by a disruption in the normal function of the brain that can be caused by a bump, blow, or jolt to the head, or penetrating head injury that has been diagnosed by a qualified medical professional.

(Indiana Department of Health; [410 IAC 37-1-8](#); filed Sep 20, 2018, 3:17 p.m.: [20181017-IR-410170564FRA](#))

SECTION 4. [410 IAC 37-1-11](#) IS AMENDED TO READ AS FOLLOWS:

### **[410 IAC 37-1-11](#) Veteran eligibility**

**Authority:** [IC 10-17-13.5-6](#)

**Affected:** [IC 10-17-13.5-6](#)

Sec. 11. (a) The provider shall make a preliminary determination as to whether a veteran is eligible for this program and document the eligibility in writing. The Indiana department of health shall make the final determination of eligibility.

(b) To be eligible to participate in the program, a veteran must **meet the requirements set out in [IC 10-17-13.5-6](#)**.

- (1) ~~have had a service-related event that caused traumatic brain injury or posttraumatic stress disorder that is documented by a licensed physician; and~~
- (2) ~~pay a copay equal to ten percent (10%) of the cost of treatment billed to the Indiana department of veterans' affairs.~~

(Indiana Department of Health; [410 IAC 37-1-11](#); filed Sep 20, 2018, 3:17 p.m.: [20181017-IR-410170564FRA](#); errata filed Jul 28, 2021, 3:18 p.m.: [20210811-IR-410210330ACA](#))

SECTION 5. [410 IAC 37-1-13](#) IS AMENDED TO READ AS FOLLOWS:

### **[410 IAC 37-1-13](#) Criteria for payment**

**Authority:** [IC 10-17-13.5-6](#)

**Affected:** [IC 10-17-13.5-6](#)

Sec. 13. (a) The Indiana department of veterans' affairs may approve a grant to a provider under ~~[IC 10-17-13.5-6](#)~~ **only if all requirements established under [IC 10-17-13.5-6](#) are met.**

- ~~(1) the treatment provided was based on the approved treatment plan;~~
- ~~(2) the drug or device used in the treatment plan has been approved for any purpose by the federal Food and Drug Administration;~~
- ~~(3) the veteran's health improved as a result of the hyperbaric oxygen treatment, as demonstrated by:
  - ~~(A) standardized, independent pretreatment and posttreatment neuropsychological testing;~~
  - ~~(B) nationally accepted survey instruments;~~
  - ~~(C) neurological examination; or~~
  - ~~(D) clinical examination; and~~~~
- ~~(4) the Indiana department of veterans' affairs has received all pretreatment and posttreatment evaluation documentation.~~

(b) Grants shall be used to pay only for diagnostic testing and hyperbaric oxygen treatment for eligible participants as defined in [IC 10-17-13.5](#) and section 11 of this rule.

(c) Grants may not be made after ~~June 30, 2020~~ **the expiration date set out in [IC 10-17-13.5-6](#).**

(Indiana Department of Health; [410 IAC 37-1-13](#); filed Sep 20, 2018, 3:17 p.m.: [20181017-IR-410170564FRA](#))

### **[Notice of Public Hearing](#)**

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