

Document: Readopted Rules

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**TITLE 460 DIVISION OF DISABILITY, AGING, AND
REHABILITATIVE SERVICES**

LSA Document #00-299

DIGEST

Readopts rules in anticipation of IC 4-22-2.5, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with secretary of state.

460 IAC 1-1-1	460 IAC 1-1-9
460 IAC 1-1-2	460 IAC 1-1-10
460 IAC 1-1-3	460 IAC 1-1-11
460 IAC 1-1-4	460 IAC 1-1-12
460 IAC 1-1-5	460 IAC 1-1-13
460 IAC 1-1-6	460 IAC 1-1-14
460 IAC 1-1-7	460 IAC 1-1-15
460 IAC 1-1-8	460 IAC 1-1-16

SECTION 1. UNDER IC 4-22-2.5-3, 460 IAC 1-1-1 IS READOPTED TO READ AS FOLLOWS:

460 IAC 1-1-1 Purpose

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12-33; IC 12-10-12-34; IC 12-15

Sec. 1. The purpose of the health facility preadmission screening program is to determine whether there are community services available for individuals who need assistance with the tasks of daily living that would be more appropriate than care in a health facility and, if so, to deny permission to enter a health facility unless the individual is willing to forego eligibility for certain Medicaid reimbursement for a period of time beginning from the date of admission as specified in IC 12-10-12-33 and IC 12-10-12-34. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-1; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1984; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3383*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-1) to the division of aging and rehabilitative services (460 IAC 1-1-1) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 2. UNDER IC 4-22-2.5-3, 460 IAC 1-1-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-1-2 Definitions

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-8-6-1; IC 12-10-1-1; IC 12-10-1-4; IC 12-10-12; IC 12-14; IC 12-15-2; IC 16-28-2

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "Applicant" means an individual who has directly, or through a responsible party, made application to participate in the nursing home prescreening program under IC 12-10-12 in order to determine the appropriateness of the individual's placement in a health facility.

(c) "Admission to a health facility" means as soon as an individual is physically present in a health facility unless the admittance is designee-approved. A person approved by a designee is considered admitted twenty-four (24) hours after entering the facility.

(d) "Bureau" refers to the bureau of aging and in-home services established within the division under IC 12-10-1-1.

(e) “DDARS” or “division” refers to the Indiana division of disability, aging, and rehabilitative services.

(f) “Designee” means an individual appointed by the prescreening agency, who may authorize temporary admittance to a health facility, under IC 12-10-12-28 through ~~IC 12-20-12-31~~; **IC 12-10-12-31**.

(g) “Equivalent degree” means a bachelor’s degree or a master’s degree, which meets the following requirements:

- (1) The degree is in the same field of study as those listed in section 10(c)(1) of this rule.
- (2) The degree requires courses comparable to the courses required for the degrees listed in section 10(c)(1) of this rule.
- (3) The degree has a different title than the degree listed in section 10(c)(1) of this rule.

(h) “Health facility” means a facility licensed by the state department of health under IC 16-28-2, whether Medicare or Medicaid certified or not, that:

(1) provides comprehensive:

- (A) nursing care;
- (B) room;
- (C) food;
- (D) laundry;
- (E) administration of medications;
- (F) special diets; and
- (G) treatments; and

(2) may provide rehabilitative and restorative therapies under the order of an attending physician.

The term, for purposes of this rule, does not include intermediate care facilities for the mentally retarded (ICF/MR) or facilities licensed for residential care.

(i) “Level I: Identification Evaluation Screen” refers to a screening tool which consists of eight (8) questions designed to ascertain whether an individual has or is suspected of having a condition of mental illness (MI) and/or mental retardation /developmental disability (MR/DD).

~~(j)~~ **(j)** “Medicaid or medical assistance” means payment for part or all of the cost of medical or remedial services furnished on behalf of eligible needy individuals as defined in IC 12-15-2.

~~(k)~~ **(k)** “Medicaid waiver” refers to specific provisions concerning home and community based services as specified under 42 U.S.C. 1396n, which have been approved by the Secretary of the federal Department of Health and Human Services, for implementation in Indiana.

~~(l)~~ **(l)** “Office” means the office of Medicaid policy and planning established under IC 12-8-6-1.

~~(m)~~ **(m)** “PAS process” means the process specified in section 4 of this rule.

~~(n)~~ **(n)** “PAS team” means the screening team under IC 12-10-12-14.

~~(o)~~ **(o)** “Preadmission screening”, “prescreening”, and “screening program” mean the screening process under IC 12-10-12.

~~(p)~~ **(p)** “Prescreening agency” or “PAS agency” means an area agency on aging designated by the bureau under IC 12-10-1-4(18).

~~(q)~~ **(q)** “Responsible party” means an individual chosen by an applicant or, if the applicant is a minor or has been adjudicated incompetent, a parent or guardian of an applicant who assists in the process of making application for prescreening under this rule. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-2; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1984; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3386*) *NOTE: Transferred from the department on aging and community services (450 IAC 1-1-2) to the division of aging and rehabilitative services (460 IAC 1-1-2) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 3. UNDER IC 4-22-2.5-3, 460 IAC 1-1-3 IS READOPTED TO READ AS FOLLOWS:

460 IAC 1-1-3 Exemption

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 3. The prescreening program under IC 12-10-12 applies to all persons applying for admission to a health facility, except that all persons admitted to a health facility prior to implementation of this section on April 30, 1983, are exempted from the prescreening requirement as set out in IC 12-10-12. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-3; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1985; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3387*) *NOTE: Transferred from the department on aging and community services (450 IAC 1-1-3) to the division of aging and rehabilitative services (460 IAC 1-1-3) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 4. UNDER IC 4-22-2.5-3, 460 IAC 1-1-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-1-4 PAS process

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 4. (a) The PAS process shall be completed for each individual who has agreed to participate in the PAS program.

(b) The PAS process shall consist of the following:

(1) A complete PAS assessment, including the following:

(A) The applicant's medical condition and related service needs.

(B) The applicant's psychosocial status and related service needs.

(C) The applicant's degree of functional impairment and related service needs.

(D) The availability of community services (formal and informal) that are sufficient and appropriate to meet the identified service needs outside of, as opposed to within, a health facility.

(2) A screening team recommendation, based upon the complete assessment, as to the appropriateness of health facility placement.

(3) A final determination by the office, based upon the screening team recommendation, as to the appropriateness of health facility placement.

(c) The PAS process must be completed prior to admission to a health facility, within twenty-five (25) days from the effective date of the PAS application, except in situations involving designee authorization for temporary admission to a health facility. **However, for a nonresident, the PAS process must be completed and the findings reported within ten (10) days.** (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-4; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1985; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3387*) *NOTE: Transferred from the department on aging and community services (450 IAC 1-1-4) to the division of aging and rehabilitative services (460 IAC 1-1-4) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 5. UNDER IC 4-22-2.5-3, 460 IAC 1-1-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-1-5 Application

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12-7; IC 12-10-12-27.1; IC 16-28-2

Sec. 5. (a) The individual requesting care in a health facility or the individual's responsible party shall fill out and sign an application for the prescreening program prior to admission to a health facility under IC 12-10-12-7. The application is considered to be completed when it is filled out, signed, and given to a representative of a health facility, the designee, or a member of the prescreening team.

(b) The applicant shall, as part of the application process, state the name, address, and telephone number of the physician that he or she requests to serve on the screening team.

(c) The effective date of the application for prescreening is the date on which the prescribed form is signed by the applicant.

(d) A person in a residential living arrangement who is at risk of institutionalization or who could benefit from home-based care may make a request to the PAS agency in the county in which the applicant resides under IC 12-10-12 prior to application for admission to a health facility to determine if home-based services are available and appropriate. The application will be made to the prescreening agency serving the area in which the applicant resides.

(e) An individual who is a resident of a health facility may request to be screened, as part of a discharge planning process, to determine what services are available to help the individual live outside of the health facility. The application will be made to the prescreening agency serving the area in which the health facility is located.

(f) Requirements for a person residing in another state requesting admission to a health facility in Indiana shall be as follows:

(1) The person must participate in the prescreening program under ~~IC 12-10-12~~, and the determination under ~~IC 12-10-12-20~~ must be rendered prior to admission to a health facility in Indiana. **IC 12-10-12-27.1.**

(2) An application for the prescreening program by a person residing in another state shall be made to the prescreening agency serving the county in which the health facility is located, and the availability of community services shall be based on services available in the area in which the health facility is located. **Determination is to be rendered within ten (10) days of receipt of the required documents.**

(g) The screening under IC 12-10-12 shall not be required:

(1) for a person admitted to a health facility following direct discharge from another health facility licensed under IC 16-28-2;

(2) for a person readmitted to a health facility from a hospital after discharge directly from a health facility to the hospital, if his or her placement in a health facility was found to be appropriate under IC 12-10-12 or if he or she was admitted to a health facility prior to April 30, 1983;

(3) for transfer from one (1) nursing facility level of services to another nursing facility level of services in the same health facility or in another health facility;

(4) for a person admitted to an intermediate care facility for the mentally retarded or a facility licensed for residential care; or

(5) for an individual who transfers from a continuing care retirement community bed to the bed of a comprehensive care facility licensed under IC 16-28-2 that serves only residents of that retirement community for a recuperative stay not to exceed five (5) days, but if the individual remains longer than five (5) days, the individual must apply for screening no later than the fifth day.

(h) Authorization for admission under IC 12-10-12-31 may be granted by the designee when a medical emergency exists in that care in the health facility is required within seventy-two (72) hours of the request for admission and the attending physician certifies the need for emergency admission to the prescreening agency following the procedures established by the division. An emergency admission shall only be granted for admission from a noninstitutional living arrangement or an emergency room of an in-state hospital.

(i) For individuals who have undergone the screening process and have been determined to be ineligible for placement in a health facility, that individual shall not apply for participation in further screening for a minimum of one (1) year unless the medical condition or the support system of the individual is significantly changed to the degree that the attending physician believes a new screening process is medically necessary. The attending physician may certify the need for such additional screening to the prescreening agency. The screening team will make the final decision on the need for another screening based on the attending physician's certification. The screening shall be conducted in accordance with IC 12-10-12. The effective date of the application for additional screening shall be the date of the screening team's final decision on the need for another screening.

(j) For persons not admitted to a health facility, the determination under IC 12-10-12-20 that placement in a health facility is appropriate shall be valid for a period not to exceed ninety (90) days from the date of issuance by the office. If the person has not been admitted to a health facility ninety (90) days after the issuance of the determination, the individual must apply for PAS screening again, and must have a physician's certification of the need for additional screening.

(k) An individual who was not notified of the requirement for prescreening and who is in a health facility may be prescreened after receiving notification of the requirement. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-5; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1985; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3388*) **NOTE: Transferred from the department on aging and community services (450 IAC 1-1-5) to the division of aging and rehabilitative services (460 IAC 1-1-5) by P.L.41-1987, SECTION 23, effective July 1, 1987.**

SECTION 6. UNDER IC 4-22-2.5-3, 460 IAC 1-1-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-1-6 Agency cooperation

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 6. (a) The county offices of family and children, the Indiana division of mental health, **the bureau of developmental disabilities**, the office, the division, the prescreening agencies, and all health facilities shall cooperate in the operation of the screening program and shall share such information concerning the applicant as requested by each other, except to the extent that the information is otherwise protected under state or federal law.

(b) The division shall prescribe the forms and procedures and establish the policy to be followed in the implementation of the nursing home prescreening program. The **appointed** area agencies on aging shall be designated by the division as the prescreening agencies to carry out the duties as outlined in this rule. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-6; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1987; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3389*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-6) to the division of aging and rehabilitative services (460 IAC 1-1-6) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 7. UNDER IC 4-22-2.5-3, 460 IAC 1-1-7 IS READOPTED TO READ AS FOLLOWS:

460 IAC 1-1-7 Prescreening agency; duties

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 7. The prescreening agency shall do the following:

- (1) Seek cooperation from other public and private agencies in the community which offer services to the disabled and elderly.
- (2) Provide information and education to the general public regarding availability of the screening program.
- (3) Accept prescreening referrals from individuals, families, human service professionals, and health facility personnel.
- (4) Assess health and social needs of referred individuals and identification of services needed to maintain these persons in the least restrictive environment.
- (5) Identify available noninstitutional services to meet the care needs of individuals referred.
- (6) Compute the cost effectiveness of noninstitutional versus health facility services.
- (7) Upon receipt of a completed application, immediately schedule the prescreening activities to be completed within the time designated at IC 12-10-12-28 through IC 12-10-12-31 or within twenty-five (25) days for persons making application under IC 12-10-12-7.
- (8) Determine the composition of the PAS teams provided for under IC 12-10-12-14. The division may require the PAS agency to seek approval of PAS team members from the division.
- (9) Make appointments and fill vacancies on the PAS team and appoint designees under IC 12-10-12-27.
- (10) Appoint to the PAS team at the time of each prescreening, the applicant's physician as required in IC 12-1-12-14(b). In the event that the applicant is unable to specify an attending physician, the prescreening agency may assist to locate a physician who shall be named as a member of the screening team with the approval of the applicant.
- (11) Notify each appointee of his or her selection, in writing.
- (12) Retain a signed copy of the prescribed notification, application form, and supporting documentation for a period of three (3) years.
- (13) Prepare reports as required by the division.
- (14) Report to the prosecuting attorney of the county in which the violation occurred the failure of the health facility to notify the individual that he or she must be prescreened prior to admission to the health facility or the failure of the health facility to deliver the signed copy of the notification to the prescreening agency serving the county in which the applicant resides.

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-7; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1987; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3389*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-7) to the division of aging and rehabilitative services (460 IAC 1-1-7) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 8. UNDER IC 4-22-2.5-3, 460 IAC 1-1-8 IS READOPTED TO READ AS FOLLOWS:

460 IAC 1-1-8 Health facility; duties

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 8. (a) When an individual applies to a health facility for admission, the health facility shall notify the applicant:

- (1) that he or she must apply to the prescreening agency for participation in the prescreening program;
- (2) that the preadmission screening program consists of an assessment of the applicant's need for care in a health facility made

by a team of individuals familiar with the needs of persons seeking admission; and
(3) the penalty that the individual will incur under IC 12-10-12-33 and IC 12-10-12-34 if he or she does not comply with the prescreening program.

(b) The notification shall be in writing on forms prescribed by the division and shall contain the information set out in IC 12-10-12-10(a) and IC 12-10-12-10(b).

(c) The applicant must be given one (1) signed copy acknowledging that he or she has received the notice and the date that the notice was received. The health facility that the individual has entered shall keep one (1) signed copy on file for one (1) year from the date of signature or, if the individual is admitted to the health facility, from the date of admission, whichever is later. One (1) signed copy must be forwarded to the prescreening agency within five (5) working days from the date of signature or, if the individual is admitted to the health facility, from the date of admission, whichever is later.

(d) It is the responsibility of the health facility to provide verification that:

(1) the application for prescreening was made prior to admission;

(2) an individual admitted prior to the prescreening determination under IC 12-10-12-20 had designee authorization for admission required under IC 12-10-12-27; and

(3) the copy of the application and other designated documentation were forwarded to the prescreening agency within five (5) working days from the date of designee authorization.

(e) The health facility shall promptly provide to the screening team an estimate of the cost of all services that the individual is anticipated to require in the health facility. The estimate will be at the cost charged to private payors. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-8; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1988; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3390)*
NOTE: Transferred from the department on aging and community services (450 IAC 1-1-8) to the division of aging and rehabilitative services (460 IAC 1-1-8) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 9. UNDER IC 4-22-2.5-3, 460 IAC 1-1-9 IS READOPTED TO READ AS FOLLOWS:

460 IAC 1-1-9 Applicant's physician or physician member of PAS team; duties

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 9. The applicant's physician or physician member of the screening team shall promptly supply all medical information on the applicant that is necessary to complete the assessment and make the findings required by IC 12-10-12-17 and IC 12-10-12-28 through IC 12-10-12-31. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-9; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1988; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3391)* *NOTE: Transferred from the department on aging and community services (450 IAC 1-1-9) to the division of aging and rehabilitative services (460 IAC 1-1-9) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 10. UNDER IC 4-22-2.5-3, 460 IAC 1-1-10 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-1-10 PAS team; duties

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 10. (a) The PAS team shall conduct the preadmission assessment pursuant to the policies and procedures prescribed by the division.

(b) The preadmission assessment shall be conducted by the use of the assessment forms developed or approved by the division and shall include the following elements:

(1) Client demographic information.

(2) Present medical condition of client.

(3) Present psychosocial status of client.

(4) Assessment of functional capacity of client.

(5) Present formal or informal services being provided to the client.

(6) Present unmet needs of client.

- (7) Formal and informal services that are presently available but are not being provided to the client.
- (8) Observations of the PAS team during the on-site visit.
- (9) Persons consulted during the screening process.
- (10) Client's preference for care.
- (11) A preliminary care plan.

(c) Each PAS team member, other than the physician member, shall have one (1) of the following:

- (1) A bachelor's degree in social work, psychology, gerontology, sociology, counseling, nursing, or an equivalent degree.
- (2) A license as a registered nurse or a bachelor's degree in any field and a minimum of two (2) years of direct service experience with the elderly or persons with disabilities, which includes activities such as the following:
 - (A) Assessment.
 - (B) Plan development.
 - (C) Implementation.
 - (D) Monitoring.

A master's degree in a related field may substitute for the required experience.

(d) An individual who meet the educational requirement and a minimum of one (1) year of the required experience may qualify provisionally as a PAS team member. In order for any individual to qualify provisionally as a PAS team member, the PAS agency shall have in place a written plan, approved by the division, outlining the manner in which the individual shall achieve the experience needed to become a PAS team member. The written plan shall include the following:

- (1) A specific proposal of how the remaining amount of the deficient experience will be satisfied within a time period equal to the amount of remaining experience needed, but not to exceed twelve (12) months.
- (2) Arrangements for the provisional PAS team member to meet, at least biweekly, with a supervisor or an individual who meets the qualifications in section 10(c) of this rule, to discuss the ~~provision~~ **provisional** PAS team member's care plans.
- (3) A statement asserting that the provisional PAS team member's care plans will be reviewed and approved by the supervisor or an individual who meets the qualifications in section 10(c) of this rule.

Provisional PAS team member certification shall be withdrawn by the division if the terms of the written plan are not met at least twelve (12) months from the date of provisional certification.

(e) Designees shall meet the criteria in subsection (c).

(f) After the assessment is completed, the PAS team shall find whether the placement of the individual in a health facility is appropriate, utilizing the guidelines set forth in section 12(c) and 12(d) of this rule.

(g) The vote of the PAS team shall be conducted at the time and place as set by the member of the screening team who represents the prescreening agency. The vote may either be made by a signature at the time of individual contact, based on a review of all necessary data, or the vote may be conducted by telephone. The vote of the physician team member will be made by completion of and signature on the prescribed form. The assessment of the appointee of the prescreening agency, together with the assessments of any other team member who desires to comment, shall be submitted to the office for the prescreening determination designated under IC 12-10-12-18. All screening forms, narrative reports, and other pertinent applicant data shall be submitted to the office with the findings of the PAS team.

(h) If the PAS team finds that placement in a health facility should be denied, then it shall:

- (1) list the reason(s) for denial;
- (2) list the community services available to the applicant that would be more appropriate than care in a health facility;
- (3) detail the cost of those community services, regardless of the source of payment;
- (4) detail the cost of placement in a health facility (which shall include the cost of all services, including those costs in addition to per diem that the applicant will require), regardless of the source of payment;
- (5) discuss the alternative service plan with the applicant after completion of the assessment;
- (6) submit the findings in writing to the office; and
- (7) make appropriate referral for case management services if the services are available.

(i) The member of the PAS team who is appointed as the representative of the prescreening agency shall obtain the information for, and prepare the assessment required by IC 12-10-12-16. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-10; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1988; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3391*) NOTE: Transferred from the department

on aging and community services (450 IAC 1-1-10) to the division of aging and rehabilitative services (460 IAC 1-1-10) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 11. UNDER IC 4-22-2.5-3, 460 IAC 1-1-11 IS READOPTED TO READ AS FOLLOWS:

460 IAC 1-1-11 Designee; duties

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 11. (a) It is the duty of the designee to gather sufficient information to make a decision whether an applicant qualifies for temporary admittance to a health facility under IC 12-10-12-28 through IC 12-10-12-31.

(b) The designee shall submit a decision in writing and supporting documentation regarding the allowance or disallowance of placement in a health facility under IC 12-10-12-28 through IC 12-10-12-31 to the following:

- (1) The prescreening agency.
- (2) The applicant.
- (3) The relevant health facility.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-11; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1989; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3392) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-11) to the division of aging and rehabilitative services (460 IAC 1-1-11) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 12. UNDER IC 4-22-2.5-3, 460 IAC 1-1-12 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-1-12 Office of Medicaid policy and planning; duties

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12-20; IC 12-13-5; IC 12-14

Sec. 12. (a) The final preadmission screening determination under IC 12-10-12-20(b) shall be rendered by the office within three (3) working days of receipt of the prescreening documentation and recommendation.

(b) The office shall notify:

- (1) the applicant;
- (2) the prescreening agency; and
- (3) the health facility;

in writing of the prescreening determination, including data on alternative community services as identified in the recommendation of the prescreening team.

(c) A final determination that the person is appropriate for nursing facility care shall be rendered when the person's condition meets the nursing facility level of services as set forth in 405 IAC 1-3-1 through 405 IAC 1-3-3 and:

- (1) alternative community services are not sufficient to meet the needs of the person;
- (2) appropriate and beneficial alternative community services that have been identified are not immediately accessible by the person due to the lack of services in the county or a waiting list for needed services in the county; or
- (3) appropriate and beneficial alternative community services that have been identified are immediately accessible, **but regardless of whether** the cost of such services is greater than the cost of nursing home care.

(d) ~~A final determination that the person is inappropriate for nursing facility care shall be rendered when the criteria in subsection (c) are not met.~~ **When the criteria in subsection (c) are not met, a final determination that the person is inappropriate for nursing facility care shall be rendered.**

(e) The office shall retain a record of each determination that is a disapproval of admission or a waiver of a requirement in this rule for at least three (3) years. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-12; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1989; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3392) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-12) to the division of aging and rehabilitative services (460 IAC 1-1-12) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 13. UNDER IC 4-22-2.5-3, 460 IAC 1-1-13 IS READOPTED TO READ AS FOLLOWS:

460 IAC 1-1-13 Individual compliance with PAS program

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12-33; IC 12-10-12-34; IC 12-13-5; IC 12-14

Sec. 13. (a) It is the responsibility of each prescreening agency to monitor individual compliance with the PAS program and report to the office. It is the responsibility of the office to impose the PAS penalty under IC 12-10-12-33 and IC 12-10-12-34 if there is noncompliance.

(b) Whenever an individual requests Medicaid payment of per diem for care in a health facility, the office must verify that individual's PAS status. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-13; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1990; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3393*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-13) to the division of aging and rehabilitative services (460 IAC 1-1-13) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 14. UNDER IC 4-22-2.5-3, 460 IAC 1-1-14 IS READOPTED TO READ AS FOLLOWS:

460 IAC 1-1-14 Penalties

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 14. (a) A person admitted to a health facility will not incur the penalties set out in IC 12-10-12-33 and IC 12-10-12-34 if authorization for admission from the prescreening agency under IC 12-10-12-28 through IC 12-10-12-31 or approval for admission under IC 12-10-12-20 has been rendered.

(b) A person admitted to a health facility on designee authorization under IC 12-10-12-28 through IC 12-10-12-31 will not incur the penalties set out in IC 12-10-12-33 and IC 12-10-12-34 if, regardless of when the determination is made:

- (1) placement in the health facility is determined to be appropriate under IC 12-10-12-20; or
- (2) the individual is discharged from the health facility within fourteen (14) days after receipt of the decision that placement in the health facility is determined to be inappropriate.

(c) The penalty under IC 12-10-12-34 shall continue only until the person receives a determination that placement in a health facility certified as a skilled nursing facility is appropriate, but in no case will last more than one (1) year from the date of admission. The time of the penalty will be computed to include the period authorized under IC 12-10-12-28 through IC 12-10-12-31 except that the penalty will not be imposed for the designee authorized time.

(d) A person who refuses to be screened by the PAS team shall incur the penalty set out in IC 12-10-12-33 or IC 12-10-12-34.

(e) However, a person who was not notified of the preadmission screening requirement will incur no penalty, unless the individual refuses to be screened after notification or is found to be inappropriate for services, in which case the individual would incur the penalty beginning with the date of notification that preadmission screening is required.

(f) The penalty set out in IC 12-10-12-33 and IC 12-10-12-34 shall not be levied against an individual who:

- (1) is eligible for and requires home and community based services approved by the Secretary of the federal Department of Health and Human Services under 42 U.S.C. 1396n; and
- (2) chooses to go into a health facility.

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-14; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1990; errata, 8 IR 2041; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3393*) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-14) to the division of aging and rehabilitative services (460 IAC 1-1-14) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 15. UNDER IC 4-22-2.5-3, 460 IAC 1-1-15 IS READOPTED TO READ AS FOLLOWS:

460 IAC 1-1-15 Waiver of sanctions

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12-23; IC 12-13-5; IC 12-14

Sec. 15. (a) Application for a waiver under IC 12-10-12-23 of the prescreening sanction may be made to the office. The waiver may be granted if, after investigation, it is found that the conditions under IC 12-10-12-23 were met and if the health facility and hospital when necessary cooperated in the prescreening process promptly. The office shall confer with the prescreening agency to ascertain whether the conditions established in this subsection and IC 12-10-12-23 were met. The office shall maintain written documentation on the waiver decision for a period of not less than three (3) years.

(b) The office shall provide a copy of the findings under IC 12-10-12-23 to the following:

- (1) The division.
- (2) The prescreening agency.
- (3) The applicant.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-15; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1990; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3394) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-15) to the division of aging and rehabilitative services (460 IAC 1-1-15) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 16. UNDER IC 4-22-2.5-3, 460 IAC 1-1-16 IS READOPTED TO READ AS FOLLOWS:

460 IAC 1-1-16 Appeals

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-12; IC 12-13-5; IC 12-14

Sec. 16. (a) An applicant aggrieved by a final determination of the office or the division may appeal that determination to the family and social services administration, hearings and appeals office.

(b) The request for a fair hearing must be submitted in writing and signed by the applicant. This request must be received in the family and social services administration, hearings and appeals office within thirty (30) days of the action being appealed. This thirty (30) day period is measured from the date of the applicant's receipt of the PAS decision being appealed.

(c) The office shall provide a copy of the appeal decision to the following:

- (1) The division.
- (2) The prescreening agency.
- (3) The applicant.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-1-16; filed Jul 25, 1985, 3:39 p.m.: 8 IR 1990; filed Aug 7, 1995, 10:00 a.m.: 18 IR 3394) NOTE: Transferred from the department on aging and community services (450 IAC 1-1-16) to the division of aging and rehabilitative services (460 IAC 1-1-16) by P.L.41-1987, SECTION 23, effective July 1, 1987.

Notice of Public Hearing

Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on April 4, 2001 at 2:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Room W451, Conference Room A, Indianapolis, Indiana the Division of Disability, Aging, and Rehabilitative Services will hold a public hearing to readopt rules.

Requests for any part of this readoption to be separate from this action must be made in writing within 30 days of this publication. Send written comments to:

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Kevin Wild

FSSA Office of General Counsel

Indiana Government Center-South

402 West Washington Street, Room W451

Indianapolis, IN 46204.

Copies of these rules are now on file at the Division of Disability, Aging, and Rehabilitative Services, Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bobby L. Conner
Director
Division of Disability, Aging, and Rehabilitative Services