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**TITLE 405 OFFICE OF THE SECRETARY OF  
FAMILY AND SOCIAL SERVICES**

LSA Document #00-277

To: Honorable Jerry Denbo, Chairperson  
The Administrative Rules Oversight Committee  
From: Catherine Rudd, Deputy General Counsel  
Family and Social Services Administration  
Re: LSA #00-277, Amendments to Medicaid Rules Affecting Nursing Facility Reimbursement  
Date: September 6, 2001

Cc: George Angelone, Legislative Services Agency  
Karen Davis, General Counsel, FSSA  
Kathleen D. Gifford, Assistant Secretary, OMPP

On behalf of the Family and Social Services Administration, Office of Medicaid Policy and Planning, I am submitting this memo to the Administrative Rules Oversight Committee in compliance with IC 4-22-2-25, because the agency has determined that the promulgation of the captioned rule may not be completed within one year after publication of the notice of intent to adopt a rule.

The agency published its notice of intent to adopt a rule for the captioned document on January 1, 2001 (24 IR 1045). Its proposed rule was published on July 1, 2001 (24 IR 3169). The delay before publication of the proposed rule was attributable to awaiting the conclusion of the legislative session and whatever action might be taken by the General Assembly concerning nursing facility reimbursement. In addition, the agency consulted with the industry and received their input before publishing a proposed rule on July 1.

Following a public hearing held on July 30, and ongoing discussions with the industry, the agency recalled the rule published on July 1 and will publish a revised proposed rule on September 1. The revised rule will be the subject of a public hearing on September 24.

Any rule adopted by the agency must be approved by the Family and Social Services Committee (see IC 12-8-3), a committee that meets only once per month. The committee currently has a number of vacancies and it is possible a monthly meeting could occur without a quorum and therefore without any action being taken on an adopted rule. This would mean delayed approval until the next monthly meeting of the committee and presence of a quorum. Following approval by the FSSA committee, the rule must be submitted to the Attorney General's office. Pursuant to IC 4-22-2-32, the Attorney General has forty-five days to complete his review of a rule. Whether a quorum is present at a monthly meeting of the FSSA Committee and the Attorney General's time frame for rule review are outside of the agency's control. For these reasons, it may not be possible for the rule to be approved by the governor within one year of the date of publication of the notice of intent. The agency expects that the rule can be approved by the governor by March 31, 2002.

This notice setting forth the expected date of approval of LSA #00-277 as March 31, 2002, is being submitted in a timely manner. September 8, 2001 is the two hundred fiftieth day after publication of the notice of intent to adopt a rule.