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

Proposed Rule
LSA Document #03-263

DIGEST

Amends 405 IAC 2-3 to specify that expenses that are subject to payment by a third party may not be used to establish spend-down eligibility and to provide that, if a recipient does not meet his or her spend-down for four consecutive months, medical assistance shall be discontinued. Effective 30 days after filing with the secretary of state.

405 IAC 2-3-10

SECTION 1. 405 IAC 2-3-10 IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-3-10 Spend-down eligibility

Authority: IC 12-13-5-3; IC 12-13-7-3; IC 12-15-1-10

Affected: IC 12-15-4; IC 12-15-5

Sec. 10. (a) As used in this section, “countable income” and “incurred medical expenses” ~~are those found~~ **have the meanings set forth** in 42 CFR 435.732, and section 3 of this rule, **and subsection (d).**

(b) Any otherwise eligible applicant or recipient whose countable monthly income exceeds the applicable income limit specified in section 18 of this rule is eligible for medical assistance for that part of any month after his or her incurred medical expenses equal his or her excess income.

(c) In order to be determined eligible for medical assistance under this section, the applicant or recipient must provide to the county department, for each month in which he or she requests medical assistance, documentary verification of his or her incurred medical expenses for which he or she remains currently liable. The county department will promptly determine the date on which the applicant became eligible for medical assistance and issue the appropriate eligibility documents for the remainder of that month.

(d) In making the determination in subsections (b) and (c), the county department shall count as the allowable incurred expense only that portion of an expense that is not subject to payment by a third party, including, but not limited to, Medicare or other health insurance. Any portion of an expense that is subject to payment by a third party shall not be allowed in the spend-down eligibility determination except as provided in subsection (e).

(e) An expense that is subject to payment by a third party shall be allowed in the spend-down eligibility determination under the following circumstances:

(1) If, after diligent effort by the county department and cooperation from the recipient, the county department is unable to determine the portion of an expense subject to payment by a third party, the amount of the incurred expense used to determine eligibility shall include the amount that the provider is expected to receive from the third party. The allowed amount of an incurred expense for which the provider of service accepts Medicare assignment shall not exceed the Medicare approved amount.

(2) Expenses subject to payment by a state or local program shall be allowed.

~~(d)~~ **(f)** If the applicant’s anticipated medical expenses do not exceed his or her excess income, his or her application will be denied. Such an applicant may reapply at any time.

(g) If a recipient does not submit medical expenses to the county department to meet his or her spend-down for four (4)

consecutive months, medical assistance shall be discontinued. (*Office of the Secretary of Family and Social Services; 405 IAC 2-3-10; filed Mar 1, 1984, 2:31 p.m.: 7 IR 1021, eff Apr 1, 1984; filed Feb 16, 1993, 5:00 p.m.: 16 IR 1785; filed Jul 25, 1995, 5:00 p.m.: 18 IR 3382; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822*) NOTE: Transferred from the Division of Family and Children (470 IAC 9.1-3-12) to the Office of the Secretary of Family and Social Services (405 IAC 2-3-10) by P.L.9-1991, SECTION 131, effective January 1, 1992.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 27, 2004 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 1, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed amendments concerning Medicaid spend-down eligibility Copies of these rules are now on file at the 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.

Cheryl Sullivan
Secretary
Office of the Secretary of Family and Social Services