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

LSA Document #03-207

To: Honorable Jerry Denbo, Chairperson
C/o Ms. Susan Burkman
The Administrative Rules Oversight Committee

From: Maureen Bartolo, Staff Attorney

Re: LSA #03-207

Date: March 5, 2004

Cc: Chuck Mayfield, Legislative Services Agency
Rachel McGeever, General Counsel, FSSA
Melanie Bella, 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 August 1, 2003 (26 IR 3675). The proposed rule was published on October 1, 2003 and the public hearing was held on October 29, 2003. The agency has been considering public comments and meeting with provider groups, delaying final rule drafting.

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 is unlikely that the rule will 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 February 28, 2005.

This notice setting forth the expected date of approval of LSA #03-207 as February 28, 2005, is being submitted in a timely manner. April 6, 2004 is the two hundred fiftieth day after publication of the notice of intent to adopt a rule.