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

LSA Document #03-263(F)

DIGEST

Amends 405 IAC 2-3-10 to specify that expenses that are subject to payment by a third party may not be used to establish spend-down eligibility for months prior to the month in which the expense is submitted, 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 42 CFR 435.121(f) and section 3 of this rule. For purposes of this section, “third party” does not include the following:**

- (1) A state program.**
- (2) A local program.**
- (3) Discounts or assistance received under the Medicare drug discount card and transitional assistance program authorized under 42 U.S.C. 1395w-141.**

(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) If a medical expense that is subject to payment by a third party is submitted to the county department in a month later than the month in which the service is provided, no portion of the expense will be allowed in the spend-down eligibility determination until the third party has adjudicated and paid its obligated amount. The portion of the expense that is paid by the third party shall not be allowed in the spend-down eligibility determination. The portion of the expense for which the recipient remains liable after the third party has paid its obligated amount shall be allowed toward spend-down eligibility.

(e) An expense that is subject to payment by a third party shall be allowed in the spend-down eligibility determination if it is submitted to the county department in the month in which the service is provided, with the following limitations:

- (1) Expenses for Medicare covered services are not allowed for recipients who are eligible as qualified Medicare beneficiaries under 42 U.S.C.1396a(a)(10)(E)(i).**
- (2) The allowed amount of an incurred expense for which the provider of service accepts Medicare assignment shall not exceed the Medicare approved amount. However, if the Medicare approved amount is not verifiable, the provider’s usual**

and customary charge for the service will be allowed.

(3) If a liable third party has paid a portion of the expense at the time the expense is submitted, the portion of the expense that has been paid by the third party shall not be allowed in the spend-down eligibility determination.

(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; filed Sep 7, 2004, 5:00 p.m.: 28 IR 178*) 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.

LSA Document #03-263(F)

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