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TITLE 470 DIVISION OF FAMILY RESOURCES

NOTE: Under P.L.234-2005, SECTION 197, the name of the Division of Family and Children is changed to the Division of Family Resources, effective July 1, 2005.

Proposed Rule LSA Document #05-201

DIGEST

Amends 470 IAC 3.1 to clarify and revise the language of the article to comply with new federal legislation (Public Law 108-446) and state legislation (P.L.234-2005 and P.L.246-2005). Amends 470 IAC 3.1-1-18 and 470 IAC 3.1-3-1 to redefine the "LPCC" to reflect a regional planning and coordination group instead of a county-based group. Amends 470 IAC 3.1-7-1 and 470 IAC 3.1-7-2 to revise the definition of eligibility. Amends 470 IAC 3.1-12-2 and 470 IAC 3.1-12-7 to clarify when third party payors may be billed for early intervention services. Amends 470 IAC 3.1-15-10 to comply with federal regulations (34 CFR 303.425). Repeals 470 IAC 3.1-7-3 to remove the biologically at-risk category as eligible for early intervention services. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Indiana Code 4-22-2.1-5 requires an agency to submit to the Legislative Services Agency and the Indiana Economic Development Corporation (IEDC) a statement of economic impact of any proposed rule with an economic impact on small businesses. The IEDC is required to review the rule and submit written comments to the agency no later than seven days before the public hearing.

The proposed change, pursuant to federal law, to require that all substantiated cases of abuse or neglect or cases identified as affected by illegal substance abuse be referred to First Steps will have a positive impact on First Steps providers, who are by in large, small businesses. Our estimated additional reimbursement for services arising out of this change is \$424,000.00.

The proposed revision in eligibility will have a potential negative economic impact on First Steps providers. Although we cannot know exactly what persons who are no longer eligible for First Steps services will do, it may be assumed that some of those persons will still seek services, even though the child is no longer eligible for assistance by First Steps. However, it would not be surprising that some of those persons with children who no longer qualify, will not seek services elsewhere. These changes may be offset by the increased need for services to evaluate abused and neglected children, under the new federal legislation, described, above.

The effect of the state legislative change in this proposed rule, requiring removal of the \$3,500.00 cap in billing to health plans should have minimal impact on any small business. Health plans are only required to pay for services that are already built into their plans. Thus, this proposed change should have not economic impact on small businesses because there would be no increased costs to the plans or employers funding the plans for First Steps covered families.

The state legislative change requiring copayment revisions to this proposed rule would only affect those recipients of First Steps services, as those are the persons who make the copayments.

470 IAC 3.1-1-10	470 IAC 3.1-7-2
470 IAC 3.1-1-18	470 IAC 3.1-7-3
470 IAC 3.1-1-25	470 IAC 3.1-11-2
470 IAC 3.1-1-26	470 IAC 3.1-11-4
470 IAC 3.1-3-1	470 IAC 3.1-12-2
470 IAC 3.1-4-2	470 IAC 3.1-12-7
470 IAC 3.1-7-1	470 IAC 3.1-15-10

SECTION 1. 470 IAC 3.1-1-10 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-1-10 "Division" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 10. "Division" means the division of family ~~and children~~ **resources**. (*Division of Family Resources; 470 IAC 3.1-1-10; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1328; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 2. 470 IAC 3.1-1-18 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-1-18 "LPCC" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 18. "LPCC" means the local planning and coordinating council, a ~~county-based~~ **regional** planning and coordination group organized for the purpose of implementing the early intervention system as required by 20 U.S.C. 1435 and 34 CFR 303. (*Division of Family Resources; 470 IAC 3.1-1-18; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1329; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2251; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 3. 470 IAC 3.1-1-25 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-1-25 "Primary referral sources" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 25. "Primary referral sources" means individuals who, or organizations ~~which~~, **that**, may refer children for early intervention services, including, but not limited to, the following:

- (1) Hospitals, including prenatal and postnatal care facilities.
- (2) Physicians.
- (3) Parents.
- (4) Day care programs.
- (5) Local educational agencies.
- (6) Public health facilities.
- (7) Other social service agencies.
- (8) Other health care providers.

(9) The department of child services.

(*Division of Family Resources; 470 IAC 3.1-1-25; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1330; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 4. 470 IAC 3.1-1-26 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-1-26 "Qualified personnel" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 26. "Qualified personnel" includes, but is not limited to, the following:

- (1) Audiologists.
- (2) Family therapists.
- (3) Nurses.
- ~~(4) Nutritionists.~~
- (4) Registered dietitians.**
- (5) Occupational therapists.
- (6) Orientation and mobility specialists.
- (7) Pediatricians and other physicians.
- (8) Physical therapists.
- (9) Psychologists.
- (10) Service coordinator.
- (11) Social workers.
- (12) Special educators or developmental therapists.
- (13) Speech and language pathologists.

(14) Vision specialists, **including ophthalmologists and optometrists.**

(15) Parent-to-parent support personnel.

(Division of Family Resources; 470 IAC 3.1-1-26; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1330; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2251; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 5. 470 IAC 3.1-3-1 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-3-1 Local planning and coordinating council

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 1. (a) The LPCC ~~organized in each county~~ shall serve as a coordinating body, advising and assisting the division in its implementation and monitoring of the early intervention system. ~~The LPCC shall have a formally defined relationship with the local step ahead council.~~

(b) The LPCC shall consist of members who reasonably represent the population of the **county region** where it is located. LPCC members shall include, at a minimum, the following:

- (1) Two (2) parents of children with disabilities.
- (2) One (1) health or medical representative.
- (3) One (1) educational representative.
- (4) One (1) social services representative.
- (5) One (1) early intervention service provider.
- (6) One (1) Head Start representative.
- (7) One (1) child care representative.

(c) The LPCC shall advise and assist the division in the division's responsibility to ensure the following:

(1) Parents, representatives of entities that refer, evaluate, or provide services to young children and their families in the community, and other interested persons are involved in the planning, development, operation, and evaluation of the early intervention service system in the **county region** represented by the LPCC.

(2) A comprehensive child find system is established, including activities to make the public aware of the early intervention system, and development of a formal system of communication and coordination among pertinent entities, especially hospitals and physicians, ~~operating in the county~~ that may have contact with eligible children and their families.

(3) An intake coordinator is appointed for every child referred for evaluation.

(4) A parent needing or seeking early intervention services for a child is informed orally and in writing about **the following:**

- (A) The purposes of the early intervention system.
- (B) The processes available to seek information and services. ~~and~~
- (C) The procedural safeguards afforded by the system.

(5) The parent is a member of the multidisciplinary team responsible for the development and implementation of the IFSP.

(6) Informed written consent of the child's parent is obtained before the initial eligibility determination for needed services and assessments are conducted.

(7) The providers of early intervention services are identified on the **county provider** service matrix.

(8) Informed written consent of a child's parent is obtained ~~prior to before~~ the provision of early intervention services for the child and family to implement the IFSP.

(9) The confidentiality of personally identifiable information about:

- (A) a child;
- (B) a parent of the child; or
- (C) other member of the child's family;

is maintained.

(10) The need of a child for a surrogate parent is determined, and a surrogate parent is assigned in accordance with 470 IAC 3.1-13-5 if the child needs one.

(11) An early intervention record is maintained for each child at the SPOE, including the following:

- (A) The child's IFSP.
- (B) Information regarding all required early intervention services.
- (C) Other individualized early intervention services needed or received by the child.
- (D) Parental consent documents.

(E) Other relevant documents pertaining to the child or the child's family.

This record is made available at the SPOE for inspection by the child's parent, and representatives of the division, the office of the secretary of family and social services, and the United States government.

(12) ~~Local~~ Early intervention documents are maintained by the LPCC, including the following:

(A) Interagency agreements regarding transitions and referrals.

(B) Records of how funds for the LPCC are budgeted and expended.

These documents shall be made available for inspection by representatives of the division, the office of the secretary of family and social services, and the United States government.

(13) The division is provided, upon request, the following:

(A) Financial and other written reports.

(B) Information regarding the use of funds.

(C) Systems request for funds (RFF).

(D) Any other information required to describe and assess the operation of the ~~local~~ early intervention system.

(Division of Family Resources; 470 IAC 3.1-3-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1334; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2254; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 6. 470 IAC 3.1-4-2 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-4-2 Individualized services

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 2. (a) Individualized services are those early intervention services determined through the evaluation and assessment process to be needed by an eligible child and required to be provided to the child and the child's family in an IFSP. Individualized services, as defined in 34 CFR 303.12(d), include the following:

- (1) Assistive technology devices and services.
- (2) Audiology **and sign language and cued language services.**
- (3) Family training, counseling, and home visits.
- (4) Health services.
- (5) Medical services only for diagnostic or evaluation purposes.
- (6) Nursing services.
- (7) Nutrition services.
- (8) Occupational therapy.
- (9) Physical therapy.
- (10) Psychological services.
- (11) Service coordination services.
- (12) Social work services.
- (13) Special instruction.
- (14) Speech-language pathology.
- (15) Transportation and related costs.
- (16) Vision services.

(b) The services identified in this section are not exhaustive and may include other services identified in a child's IFSP, such as respite care and other family support services. *(Division of Family Resources; 470 IAC 3.1-4-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1336; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 7. 470 IAC 3.1-7-1 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-7-1 Developmental delay

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 1. (a) Children from birth through two (2) years of age shall be considered eligible to receive early intervention services if they are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one (1) or more of the following areas:

- (1) Cognitive development.
- (2) Physical development, including vision and hearing.
- (3) Communication development.
- (4) Social or emotional development.
- (5) Adaptive development.

(b) When using standardized assessments or criterion-referenced measures to determine eligibility, a developmental delay is defined as:

- (1) a delay in one (1) or more areas of development as determined by:
 - (A) ~~one and one-half ($1\frac{1}{2}$)~~ **two (2)** standard ~~deviation~~ **deviations** below the mean; or
 - (B) ~~twenty~~ **twenty-five** percent (~~20%~~) (**25%**) or more in function below the chronological age (adjusted for prematurity, if applicable) on an assessment instrument that yields scores in months; or
- (2) a delay in two (2) or more areas of development as determined by:
 - (A) ~~one (1)~~ **and one-half ($1\frac{1}{2}$)** standard deviation below the mean; or
 - (B) ~~fifteen~~ **twenty** percent (~~15%~~) (**20%**) or more in function below the chronological age (adjusted for prematurity, if applicable) on an assessment instrument that yields scores in months.

(c) If, because of a child's age or the kind of standardized instruments available in specific domains, a standardized score is not appropriate or cannot be determined, a child may be determined to have a developmental delay by the informed clinical opinion of a multidisciplinary team, which includes the parent and documentation from the child's primary health care provider.

(d) When relying on informed clinical opinion, developmental delay may be determined by a consensus of a multidisciplinary team, including the parent, as a member, using multiple sources of information including, at a minimum, the following:

- (1) A developmental history as currently reported by the parent or primary caregiver.
- (2) A review of pertinent records related to the child's current health status and medical history. Consideration may be given for **the following:**
 - (A) Functional status.
 - (B) Recent rate of change. ~~and~~
 - (C) Prognosis for change in the near future based on anticipated medical or health factors.

- (3) At least one (1) other assessment procedure to document delayed development, such as observational assessment or planned observation of a child's behaviors and parent-child interaction, or documentation of delayed development by use of nonstandardized assessment devices, such as developmental checklists.

(Division of Family Resources; 470 IAC 3.1-7-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1338; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2259; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 8. 470 IAC 3.1-7-2 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-7-2 High probability of development delay

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 2. Children from birth through two (2) years of age shall be considered eligible to receive early intervention services if they have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay. This category includes children who have identified physical or mental conditions but who may not be exhibiting delays in development at the time of diagnosis. The following are the diagnosed physical or mental conditions that have a high probability of resulting in developmental delay:

- (1) Chromosomal abnormalities or genetic disorder.
- (2) Neurological disorder.
- (3) Congenital malformation.
- (4) Sensory impairment, including vision and hearing.
- (5) Severe toxic exposure, **including prenatal exposure.**
- ~~(6) Severe infectious disease.~~
- ~~(7) Atypical development disorder.~~
- (6) Neurological abnormality in the newborn period.**
- (7) Low birth weight of less than or equal to one thousand five hundred (1,500) grams.**

(Division of Family Resources; 470 IAC 3.1-7-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1339; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2259; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 9. 470 IAC 3.1-11-2 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-11-2 Division responsibilities

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 2. (a) To facilitate the transition process for each eligible child and the child's family, the division shall do the following:

(1) Maintain an interagency agreement with the Indiana state board of education, Head Start, Healthy Families, and other entities outlining each party's role and responsibilities to ensure a smooth transition from early intervention services under Part C of the Act to preschool services under Part B of the Act.

(2) Establish the procedures and forms that participants in the early intervention system must follow and use for transition services to ensure the following information is recorded for each eligible child:

(A) A description of how the child's family will be included in the transition plans.

(B) A description of how the service coordinator will do the following:

(i) Notify the appropriate local educational agency or intermediate educational unit in which the child resides.

(ii) Convene, with the approval of the family, a conference among representatives of the division, the family, and the local educational agency or unit, at least ninety (90) days before **(and at the discretion of all parties required to attend the transition conference, not more than nine (9) months)** the child's third birthday or, if earlier, the date on which the child is eligible for preschool services provided in accordance with Part B of the Act and state law, to do the following:

(AA) Review the child's program options for the period from the child's third birthday through the remainder of the school year.

(BB) Establish a transition plan.

(b) The division will seek to identify and establish collaborative agreements with any other programs or entities to facilitate the transition of infants and toddlers, at or ~~prior to~~ **before** their third birthday, to other needed services. *(Division of Family Resources; 470 IAC 3.1-11-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1344; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2265; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 10. 470 IAC 3.1-11-4 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-11-4 Service coordinator responsibilities

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 4. (a) The service coordinator shall be responsible for the development and implementation of a transition plan process, which process must include the following:

(1) Discussions with, training of, and instructions for parents regarding **the following**:

(A) Due process rights.

(B) Future service options. ~~and~~

(C) Other matters related to the child's transition:

(i) into;

(ii) within; or

(iii) from;

the early intervention system.

(2) Procedures that parents and service providers will utilize to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting. These activities should be established during the last IFSP meeting before the anticipated transition.

(3) With the consent of the parent, the transmission of information about the child to the local educational agency, or other service provider, to ensure continuity of services, including evaluation and assessment information and copies of IFSPs that have been developed.

(b) With the informed, written consent of the parent, the service coordinator shall notify the local educational agency of the child's

residence or Part B preschool service provider, or both, eighteen (18) months ~~prior to~~ **before** a child's third birthday, or as soon as the child enters the early intervention system if they are older than eighteen (18) months when they enter the system. The information to be provided by the service coordinator shall include **the following**:

- (1) The child's name.
- (2) The date of birth. ~~and~~
- (3) The suspected disability.

(c) At least six (6) months ~~prior to~~ **(and not more than nine (9) months) before** a child's third birthday, with the informed, written consent of the child's parent, the service coordinator shall transmit to the local educational agency of the child's residence, the following:

- (1) The most recent IFSP.
- (2) The most recent evaluation reports from any appropriate sources.
- (3) Other information determined with the family to be relevant to program planning and service delivery.

(d) The service coordinator shall convene, with the approval of the family, a transition conference including the family, the local educational agency of the child's residence, current service providers, and potential service providers, at least ninety (90) days ~~prior to~~ **before** the child's third birthday, or up to ~~six (6)~~ **nine (9)** months ~~prior to~~ **before** the child's third birthday, at the discretion of all parties required to attend the transition conference, or any other anticipated transition, to do the following:

- (1) Review the child's program options for the period from the third birthday through the remainder of the school year.
- (2) Establish the transition plan, that includes the following:
 - (A) Desired outcomes.
 - (B) Identified service providers.
 - (C) An outline regarding transfer of information.
 - (D) Time lines with dates of anticipated conclusion of early intervention services and commencement of subsequent activities.
 - (E) With the concurrence of the parent, a statement of the family's priorities, concerns, and resources related to transition expectations.

(Division of Family Resources; 470 IAC 3.1-11-4; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1344; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3471; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2265; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 11. 470 IAC 3.1-12-2 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-12-2 Funding sources

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 2. (a) The individualized services specified in 470 IAC 3.1-4-2, provided to eligible infants and toddlers and their families, shall be financed through multiple funding sources. Sources ~~which that~~ may be available to finance individualized services, as appropriate, may include, but are not limited to, the following:

- (1) Title XIX of the Social Security Act (Medicaid).
- (2) Third party payors, including private health insurers.
- (3) Any medical program administered by the Secretary of the United States Department of Defense.
- (4) Cost participation by the parent of an eligible child that receives early intervention services, pursuant to and in accordance with IC 12-17-15-17(b) through IC 12-17-15-17(e).

(b) All infants and toddlers and their families who are eligible for early intervention services through Medicaid and Children's Special Health Care Services must apply for Medicaid and Children's Special Health Care Services.

(c) Third party payors, such as health insurance companies, may be billed for the costs of appropriate early intervention services. ~~with informed, written parental consent through financial case management.~~

(d) Notwithstanding subsections (a)(4), (b), (c), and sections 3 and 7 of this rule, the provision of early intervention services may not be denied or delayed due to disputes between service providers or other agencies regarding financial responsibility to pay for early intervention services, nor because of the inability of the parent of an eligible child to pay for services, under a cost participation plan.

(e) Nothing in this article shall be construed as restricting any service provider from providing services to any person regardless of eligibility status; however, no service provider may utilize any early intervention system funding source for services provided to any ineligible child or family or file claims for reimbursement from the early intervention system for services rendered to such child or family. *(Division of Family Resources; 470 IAC 3.1-12-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1345; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2266; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235; filed Feb 10, 2003, 3:22 p.m.: 26 IR 2320)*

SECTION 12. 470 IAC 3.1-12-7 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-12-7 Cost participation plan

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 7. (a) As used in this section, family of an eligible infant or toddler shall be composed of members who live in the same household as the eligible infant or toddler and include only the following members:

- (1) Biological parent.
- (2) Adoptive parent.
- (3) Sibling.
- (4) Half-sibling.
- (5) Adoptive sibling.

(b) The division shall establish and implement cost participation plan procedures for charges and fees imposed by service providers for the individualized services specified in **the following**:

- (1) 470 IAC 3.1-4-2(a)(2) through 470 IAC 3.1-4-2(a)(4).
- (2) 470 IAC 3.1-4-2(a)(6) through 470 IAC 3.1-4-2(a)(10).
- (3) 470 IAC 3.1-4-2(a)(12) through 470 IAC 3.1-4-2(a)(14). ~~and~~
- (4) 470 IAC 3.1-4-2(a)(16).

(c) The cost participation plan procedures for each eligible family shall be based upon the following:

- (1) The following schedule of costs: ~~which expires on July 1, 2005:~~

Percentage of Federal Income Poverty Level		Copayment Per Treatment	Maximum Monthly Cost Share Per Family
At Least	But Not More Than		
0%	350% 250%	\$0	\$0
251%	350%	\$3	\$24
351%	450%	\$5 \$6	\$25 \$48
451%	550%	\$10 \$15	\$50 \$120
551%	650%	\$15 \$25	\$75 \$200
651%	750%	\$20 \$50	\$100 \$400
751%	850%	\$25 \$75	\$125 \$600
851%	1000%	\$30 \$100	\$150 \$800
1,001%		\$36 \$120	\$180 \$960

- (2) The parent's ability to pay.

(d) The division may waive or reduce a required copayment if

~~(1) out-of-pocket medical expenses and personal care needs expenses incurred, within the previous twelve (12) month period preceding the date of application, that relate to the health or medical needs of a family member reduce the level of income the parent has to a lower level found in the schedule of costs at subsection (c)(1). or~~

~~(2) the division receives payment from a parent's health care coverage and does not exceed more than three thousand five hundred dollars (\$3,500) per eligible child, per year.~~

(e) A parent who fails to provide the financial information for the division to be able to determine the copayment amount shall pay the maximum level copayment found in the schedule of costs at subsection (c)(1).

(f) The division may allow and accept voluntarily contributed payments that exceed the parent's required copayment amount.

(g) The parent's cost participation amount shall be reviewed by the division for one (1) or both of the following:

- (1) Annually.
- (2) Within thirty (30) days after the parent reports a reduction in income.

(h) The SPOE shall notify the parent of the following:

- (1) The copayment amount per treatment and the maximum monthly cost share per family.
- (2) Any recalculated copayment amount per treatment and the maximum monthly cost share per family determined under subsection (g)(1) or (g)(2).

(i) The parent may request reconsideration by the division of the copayment amount within fifteen (15) days from the date the notification of the copayment amount was received by the parent. The request for reconsideration shall:

- (1) be written;
- (2) be sent to the director of the division; and
- (3) state the specific reasons the copayment amount should be reconsidered.

(j) The division shall establish and implement procedures to assure timely reimbursement of the copayment by parents for early intervention services required under this section.

(k) The copayments that are received by the division under this cost participation plan must be used to fund the early intervention system. (*Division of Family Resources; 470 IAC 3.1-12-7; filed Feb 10, 2003, 3:22 p.m.: 26 IR 2320*)

SECTION 13. 470 IAC 3.1-15-10 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-15-10 Status of a child during proceedings

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 10. (a) During the pendency of any proceedings involving complaints initiated under this rule, unless the ~~service provider~~ **division** and the parent of a child otherwise agree, the child must continue to receive the appropriate early intervention services currently being provided.

(b) If the complaint involves an application for initial services, the child must receive those services that are not in dispute. (*Division of Family Resources; 470 IAC 3.1-15-10; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1353; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2272; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 14. 470 IAC 3.1-7-3 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 1, 2005, at 9:00 a.m. at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana; AND on November 2, 2005, at 9:00 a.m. at the United Way Building, 1531 13th Street, Suite G900, Columbus, Indiana; AND on November 4, 2005 at 9:00 a.m., at The Pumpnickel Cafe, 500 South Main Street, Elkhart, Indiana the Division of Family Resources will hold a public hearing on proposed amendments to 470 IAC 3.1 to clarify and revise the language of the rule to comply with new federal legislation (Public Law 108-446) and state legislation (P.L.234-2005 and P.L.246-2005), 470 IAC 3.1-1-18 and 470 IAC 3.1-3 to redefine the "LPCC" to reflect a regional planning and coordination group instead of a county-based group, 470 IAC 3.1-7 to revise the definition of eligibility, 470 IAC 3.1-12 to clarify when third party payors may be billed for early intervention services, and 470 IAC 3.1-15-10 to comply with federal regulations (34 CFR 303.425) and to repeal 470 IAC 3.1-7-3 to remove the biologically at-risk category as eligible for early intervention services.

The Division of Family Resources has the authority to promulgate rules in accordance with the requirements of the federal legislation (Public Law 108-446) and state legislation (P.L.234-2005 and P.L.246-2005). Further, the Division of Family Resources has the authority to change the eligibility requirements for early intervention services in accordance with 24 CFR 303.300. The changes to the eligibility requirements may have a slight negative economic impact on the small businesses that provide early intervention services. These revisions to the eligibility, which reduce the number of children who are eligible to receive the state's early intervention services, are being made in the interest of the long term sustainability of the state's early intervention program.

However, providers who wish to serve children, who would have qualified under the current guidelines may still do so, but will be paid through other means. Further, the increased need for services to screen and evaluate abused and neglected children, as required by the new federal legislation, may offset the decrease in the services provided, as a result of the changes in eligibility.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W386, MS02, and each First Steps Council, SPOE around the state and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

James F. Robertson
Director
Division of Family Resources