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

LSA Document #05-112

To: Honorable Michael Murphy, Chairperson  
The Administrative Rules Oversight Committee  
C/o Ms. Susan Burkman  
Indiana Legislative Services Agency  
200 W. Washington Street, Suite 301  
Indianapolis, IN 46204-2789

From: Donna Stolz Sembroski, Staff Attorney

Re: LSA #05-112

Date: January 24, 2006

Cc: Chuck Mayfield, Legislative Services Agency  
John Davis, General Counsel, FSSA  
Jeanne LaBrecque, 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 will 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 June 1, 2005 (28 IR 2756). The proposed rule is scheduled for publication in the February 1, 2006 Indiana Register. The rule implements a nursing home quality assessment fee for the purpose of funding enhanced nursing home facility reimbursement. It also adds provisions for additional reimbursement for closing or converting nursing facilities. These changes could not be implemented until approval was received from the federal Centers for Medicare and Medicaid Services (CMS), and the substance of the proposed rule could not be determined until granted that approval. CMS has now approved the state plan amendment and waiver. In addition, 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. 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 December 31, 2006.

This notice setting forth the expected date of approval of LSA #05-112 as December 31, 2006 is being submitted in a timely manner. February 6, 2006 is the two hundred fiftieth day after publication of the notice of intent to adopt a rule.