

Document: AROC Notice, **Register Page Number:** 29 IR 2054

Source: March 1, 2006, Indiana Register, Volume 29, Number 6

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

LSA Document #05-114

To: Honorable Michael Murphy, Chairperson
C/o Ms. Sarah Burkman
The Administrative Rules Oversight Committee

From: Scott Linneweber, Staff Attorney

Re: LSA #05-114, Amendments to Nursing Facility Rate Increase Rule

Date: February 1, 2006

Cc: Chunk Mayfield, Legislative Services Agency
John Davis, General Counsel, FSSA
Jeanne M. LaBrecque, Director, Office of Medicaid Policy and Planning

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 June 1, 2005 (28 IR 2757). The proposed rule was initially published on September 1, 2005 with a first public hearing on September 29, 2005. The agency examined comments received from this public hearing and substantially changed the language in the proposed rule. The agency then published the revised proposed rule on January 1, 2006 and held a second public hearing on January 26, 2006. The agency has been considering public comments and taking the necessary steps to prepare for program implementation.

Because this rule affects provider funding, the agency has been deliberate in its processes and worked for inclusion of the provider community's comments so that the proposed rule will strike the appropriate balance between fiscal prudence and adequate funding for quality services. 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. Based on public comments, the agency will be presenting this rule to the FSSA Committee with a different but related rule. The soonest this could be done is March 14, 2006. However, due to the uncertainty of this committee having a quorum, or the extent to which public comments will be presented on the related rule, the final presentation of this rule to the FSSA Committee may not occur until April 11, 2006. Pursuant to IC 4-22-2-32, the Attorney General has forty-five days to complete his review of a rule. The governor then has up to thirty days to review the rule. 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 June 25, 2006.

This notice setting forth the expected date of approval of LSA #05-114 as June 25, 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.