

## **IC 12-15-41**

### **Chapter 41. Medicaid Buy-In Program for Working Individuals With Disabilities**

#### **IC 12-15-41-1**

##### **"Buy-in program"**

Sec. 1. As used in this chapter, "buy-in program" refers to the Medicaid buy-in program for working individuals with disabilities established by section 3 of this chapter.

*As added by P.L.287-2001, SEC.9.*

#### **IC 12-15-41-2**

##### **"Countable resources"**

Sec. 2. As used in this chapter, "countable resources" means all cash, other liquid assets, real property, and personal property owned by an applicant for or a recipient of Medicaid under this chapter, or the spouse of an applicant or a recipient, that could be converted to cash to be used for support or maintenance, except the following:

(1) All resources disregarded by the office under this article for the purpose of determining eligibility for Medicaid.

(2) Any resource eligible for exclusion under 42 U.S.C. 1396a(r)(2), including a retirement account established under 26 U.S.C. 220 and held by either the applicant or recipient or the applicant's or recipient's spouse.

(3) Subject to approval by the office, not more than twenty thousand dollars (\$20,000) in independence and self-sufficiency accounts held by the applicant or recipient for the sole purpose of purchasing goods or services, including assistive technology and personal assistance, that:

(A) will increase the employability or independence of the applicant or recipient; and

(B) are not services to which the recipient is entitled under Medicaid or any other publicly funded program.

*As added by P.L.287-2001, SEC.9. Amended by P.L.197-2011, SEC.42.*

#### **IC 12-15-41-3**

##### **Establishment**

Sec. 3. The Medicaid buy-in program for working individuals with disabilities is established to provide, beginning July 1, 2002, Medicaid to individuals who are disabled and employed, as authorized under Section 201 of the federal Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170, 42 U.S.C. 1396 et seq.).

*As added by P.L.287-2001, SEC.9.*

#### **IC 12-15-41-4**

##### **Exemptions from eligibility requirements**

Sec. 4. To participate in the buy-in program beginning July 1, 2002, an individual must meet the eligibility requirements under

IC 12-15-2-6, except as follows:

- (1) The individual has a severe medically determinable impairment without regard to the individual's employment status.
- (2) The individual must be at least sixteen (16) years of age but not more than sixty-four (64) years of age.
- (3) The individual must be engaged in a substantial and reasonable work effort as determined by the office and as permitted by federal law.
- (4) The individual does not have countable resources that exceed the resource limits for the federal Supplemental Security Income program (42 U.S.C. 1382).
- (5) The individual's annual gross income does not exceed three hundred fifty percent (350%) of the federal income poverty level for an individual. In determining an individual's income under this subdivision, the office may not consider the following:
  - (A) The income of the individual's spouse.
  - (B) Income disregarded under the state Medicaid plan's financial methodology, including income disregarded under the federal Supplemental Security Income program (42 U.S.C. 1382) as impairment related work expenses (IRWE).

*As added by P.L.287-2001, SEC.9.*

#### **IC 12-15-41-5**

##### **Continued eligibility requirements after change in circumstances**

Sec. 5. An individual who is enrolled in the buy-in program and who no longer meets the eligibility requirements set forth in section 4 of this chapter due to an improvement in the individual's medical condition continues to be eligible for Medicaid coverage under the buy-in program if the individual meets the following requirements:

- (1) The individual continues to have a severe medically determinable impairment, as determined by the office and as allowed by federal law.
- (2) The individual is employed and earning a monthly wage that is not less than the federal minimum hourly wage times forty (40).
- (3) The individual does not have income or countable resources in excess of the limits established under section 4 of this chapter.
- (4) The individual is at least sixteen (16) years of age and less than sixty-five (65) years of age.
- (5) The individual pays any premiums or other cost sharing required under this chapter.
- (6) The individual meets all other eligibility requirements under this chapter.

*As added by P.L.287-2001, SEC.9.*

#### **IC 12-15-41-6**

##### **Continued eligibility if unable to maintain employment**

Sec. 6. (a) An individual who is enrolled in the buy-in program and who is unable to maintain employment for involuntary reasons, including temporary leave due to a health problem or involuntary termination, continues to be eligible for Medicaid coverage under the buy-in program if the individual meets the following requirements:

(1) Within sixty (60) days after the date on which the individual becomes unemployed, the individual, or an authorized representative of the individual, submits a written request to the office that the individual's Medicaid coverage be continued.

(2) The individual maintains a connection to the workforce during the individual's continued eligibility period by participating in at least one (1) of the following activities:

(A) Enrollment in a state or federal vocational rehabilitation program.

(B) Enrollment or registration with the office of workforce development.

(C) Participation in a transition from school to work program.

(D) Participation with an approved provider of employment services.

(E) Provision of documentation from the individual's employer that the individual is on temporary involuntary leave.

(3) The individual does not have income or countable resources in excess of the limits established under section 4 of this chapter.

(4) The individual is at least sixteen (16) years of age and less than sixty-five (65) years of age.

(5) The individual pays any premiums or other cost sharing required under this chapter.

(6) The individual meets all other eligibility requirements under this chapter.

(b) The office shall continue Medicaid coverage under the buy-in program for an individual described in subsection (a) for up to twelve (12) months from the date of the individual's involuntary loss of employment.

(c) If an individual is ineligible for continued coverage under the buy-in program because the individual:

(1) fails to meet the requirements of subsection (a); or

(2) has already met twelve (12) months of continuing eligibility under this section;

the individual must meet the eligibility requirements of IC 12-15-2-6 to continue to be eligible for Medicaid.

*As added by P.L.287-2001, SEC.9.*

#### **IC 12-15-41-7**

##### **Sliding scale of premiums**

Sec. 7. (a) The office shall develop a sliding scale of premiums for individuals participating in the buy-in program.

(b) The sliding scale of premiums required under subsection (a)

must:

- (1) be based on the annual gross income of the individual and, if married, the individual's spouse; and
- (2) provide for a minimum monthly premium of twenty-five dollars (\$25) and a maximum monthly premium of two hundred seventy-five dollars (\$275).

(c) Subject to the minimum and maximum amounts described in subsection (b), the office may annually adjust the scale of premiums adopted under this section.

*As added by P.L.287-2001, SEC.9.*

#### **IC 12-15-41-8**

##### **Premiums**

Sec. 8. (a) An individual whose gross annual income, including the gross annual income of the individual's spouse, if married, is less than one hundred fifty percent (150%) of the federal income poverty level for the size of the individual's or couple's family may not be required to pay a premium to participate in the buy-in program.

(b) An individual whose gross annual income, including the gross annual income of the individual's spouse, if married, is at least one hundred fifty percent (150%) but not more than three hundred fifty percent (350%) of the federal income poverty level for the size of the individual's or couple's family, must pay a monthly premium in an amount equal to:

- (1) the lesser of:
  - (A) the amount prescribed by the sliding scale developed by the office under section 7 of this chapter; or
  - (B) seven and one-half percent (7 1/2%) of the individual's or couple's gross annual income divided by twelve (12); minus
- (2) the monthly amount of any premium paid by the individual, the individual's spouse, or the individual's parent for health insurance that covers the individual.

*As added by P.L.287-2001, SEC.9.*

#### **IC 12-15-41-9**

##### **Annual review of premiums; adjustment of premiums**

Sec. 9. (a) The office shall annually review the amount of the premium that an individual is required to pay under section 8 of this chapter.

(b) In addition to the annual review required under subsection (a), the office shall adjust the premium that an individual is required to pay under section 8 of this chapter if:

- (1) a change in the individual's income or family size is verified; and
- (2) the sliding scale adopted under section 7 of this chapter applied to the individual's changed circumstances prescribes a premium for the individual that is different from the premium the individual is paying.

*As added by P.L.287-2001, SEC.9. Amended by P.L.26-2003, SEC.3.*

### **IC 12-15-41-10**

#### **Administrative procedures regarding premiums**

Sec. 10. To the greatest extent possible, the office shall use the same administrative procedures regarding premiums for the buy-in program as are used for the children's health insurance program established under IC 12-17.6, including:

- (1) the effect of nonpayment of a premium; and
- (2) the collection of premiums.

*As added by P.L.287-2001, SEC.9.*

### **IC 12-15-41-11**

#### **Annual redetermination of disability**

Sec. 11. (a) The office shall establish criteria to base the annual redetermination of disability required under 405 IAC 2-2-3(b) for an individual participating in the buy-in program on the individual's medical evidence, including evidence of physical or mental impairment.

(b) In conducting the annual redetermination described in subsection (a), the office may not determine that an individual participating in the buy-in program is no longer an individual with a disability based solely on the individual's:

- (1) participation in employment;
- (2) earned income; or
- (3) income from self-employment.

*As added by P.L.287-2001, SEC.9. Amended by P.L.99-2007, SEC.96.*

### **IC 12-15-41-12**

#### **Home health care services; cost sharing**

Sec. 12. Except as otherwise provided in this chapter, an individual participating in the buy-in program:

- (1) shall receive the same benefits, including home health care services; and
- (2) is subject to the same requirements, including cost sharing;

as an individual receiving Medicaid under IC 12-15-2-6.

*As added by P.L.287-2001, SEC.9.*

### **IC 12-15-41-13**

#### **Criteria for determining effectiveness of buy-in program and continued Medicaid coverage**

Sec. 13. (a) The office shall establish criteria to determine the effectiveness of:

- (1) the buy-in program; and
- (2) continued Medicaid coverage through Section 1619 of the federal Social Security Act (42 U.S.C. 1382h).

(b) The criteria required under subsection (a) must include the following:

- (1) The number of individuals with disabilities who are:
  - (A) enrolled in the buy-in program; or
  - (B) receiving Medicaid through Section 1619 of the federal

Social Security Act (42 U.S.C. 1382h).

(2) State revenues resulting from premiums paid by participants in the buy-in program.

(3) State costs incurred as a result of implementing the buy-in program, including administrative costs and costs of providing services.

(c) In addition to the criteria required under subsection (b), the office may establish criteria to determine the following:

(1) Comparative costs of Medicaid funded services for participants in the buy-in program and work incentives created through Section 1619 of the federal Social Security Act (42 U.S.C. 1382h) before and after employment.

(2) The number of Supplemental Security Income and Social Security Disability Insurance recipients in Indiana who are no longer dependent on, or who have reduced dependence on, public assistance or health care entitlement services, other than Medicaid or the children's health insurance program, due to participation in the buy-in program or work incentives created through Section 1619 of the federal Social Security Act (42 U.S.C. 1382h).

(3) The number of individuals with severe disabilities who are no longer dependent on, or who have reduced dependence on, public benefits or services, other than Medicaid or the children's health insurance program, due to income or support services received through participation in the buy-in program or work incentives created through Section 1619 of the federal Social Security Act (42 U.S.C. 1382h).

(4) The change in the number of buy-in program participants or participants in work incentives created through Section 1619 of the federal Social Security Act (42 U.S.C. 1382h) who have health care needs and related services covered through employer based benefit programs.

(d) In evaluating the effectiveness of the state's work incentive initiatives for individuals with disabilities, the office:

(1) shall collaborate with other state agencies on data collection; and

(2) may consult with an independent contractor to collect data on the criteria listed under subsection (b).

*As added by P.L.287-2001, SEC.9. Amended by P.L.197-2011, SEC.43.*

#### **IC 12-15-41-14**

##### **Funding for program**

Sec. 14. Funding for the buy-in program shall be from funds appropriated by the general assembly, premiums paid, and any federal matching funds available to the program.

*As added by P.L.287-2001, SEC.9.*

#### **IC 12-15-41-15**

##### **Adoption of rules**

Sec. 15. (a) The office shall adopt rules under IC 4-22-2 to implement this chapter.

(b) The office may adopt emergency rules under IC 4-22-2-37.1 to implement this chapter on an emergency basis.

*As added by P.L.287-2001, SEC.9. Amended by P.L.197-2011, SEC.44.*