

## IC 11-10-3

### Chapter 3. Medical Care

#### IC 11-10-3-1

##### Definitions

Sec. 1. As used in this chapter:

"Physician" means an individual holding a license to practice medicine in Indiana, issued by the medical licensing board of Indiana, or a medical officer of the United States government who is in Indiana performing his official duties.

"Psychiatrist" means a physician who is certified or board qualified by the American Board of Psychiatry and Neurology, or a board with equivalent standards approved by the American Osteopathic Association.

"Psychologist" means an individual holding a valid certificate to practice psychology in Indiana, issued by the state psychology board.

"Qualified medical personnel" means individuals engaged in the delivery of a medical or health care service who have been licensed, certified, or otherwise properly qualified under the laws of Indiana applicable to that particular service.

*As added by Acts 1979, P.L.120, SEC.3. Amended by P.L.149-1987, SEC.1.*

#### IC 11-10-3-2

##### **Examination for communicable diseases and conditions on commitment; medical and dental examination; care committed person entitled to; prohibited acts**

Sec. 2. (a) An individual committed to the department shall be immediately examined for communicable diseases and conditions by qualified medical personnel under the direct supervision of a physician. New admittees shall be segregated from the general population of a facility or program to the extent required by acceptable medical practice and standards until this examination is completed.

(b) Within fourteen (14) days after commitment to the department, an individual shall be given the opportunity to receive a thorough medical and dental examination conducted according to acceptable medical practices and standards. All subsequent routine medical or dental examinations shall be scheduled by direction of a physician or dentist.

(c) A confined person is entitled to:

- (1) medical care, medical personnel, and medical facilities of a quality complying with applicable state licensing requirements;
- (2) first aid or emergency medical treatment on a twenty-four (24) hour basis; and
- (3) mental health care by a psychiatrist, a psychologist, or another mental health professional.

(d) A committed person may not prescribe, dispense, or administer drugs or medication.

*As added by Acts 1979, P.L.120, SEC.3. Amended by P.L.135-1993, SEC.1.*

#### **IC 11-10-3-2.5**

##### **Offender blood testing; confidentiality; reporting requirements**

Sec. 2.5. (a) As used in this section, "confirmatory test" means a laboratory test or a series of tests approved by the state department of health and used in conjunction with a screening test to confirm or refute the results of the screening test for the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV).

(b) As used in this section, "screening test" means a laboratory screening test or a series of tests approved by the state department of health to determine the possible presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV).

(c) For an individual who is committed to the department after June 30, 2001, the examination required under section 2(a) of this chapter must include the following:

- (1) A blood test for hepatitis C.
- (2) A screening test for the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV).

(d) If the screening test required under subsection (c)(2) indicates the presence of antibodies to the human immunodeficiency virus (HIV), the department shall administer a confirmatory test to the individual.

(e) The department may require an individual who:

- (1) was committed to the department before July 1, 2001; and
- (2) is in the custody of the department after June 30, 2001;

to undergo the tests required by subsection (c) and, if applicable, subsection (d).

(f) Except as otherwise provided by state or federal law, the results of a test administered under this section are confidential.

(g) The department shall, beginning September 1, 2002, file an annual report in an electronic format under IC 5-14-6 with the executive director of the legislative services agency containing statistical information on the number of individuals tested and the number of positive test results determined under this section.

*As added by P.L.293-2001, SEC.1. Amended by P.L.28-2004, SEC.83.*

#### **IC 11-10-3-3**

##### **Prenatal and postnatal care, treatment**

Sec. 3. Necessary prenatal and postnatal care and treatment shall be provided consistent with acceptable medical practice and standards. When possible, arrangements shall be made for children to be born in a hospital outside the correctional facility. If a child is born in a correctional facility, this fact may not be mentioned on the

birth certificate.

*As added by Acts 1979, P.L.120, SEC.3.*

#### **IC 11-10-3-4**

#### **Directives; inspections of health facilities and hospitals; definition; unused medications and supplies**

Sec. 4. (a) The department shall establish directives governing:

- (1) medical care to be provided to committed individuals, including treatment for intellectual disabilities, alcoholism, and drug addiction;
- (2) administration of medical facilities and health centers operated by the department;
- (3) medical equipment, supplies, and devices to be available for medical care;
- (4) provision of special diets to committed individuals;
- (5) acquisition, storage, handling, distribution, and dispensing of all medication and drugs;
- (6) the return of unused medications that meet the requirements of IC 25-26-13-25(k)(1) through IC 25-26-13-25(k)(6) to the pharmacy that dispensed the medication;
- (7) training programs and first aid emergency care for committed individuals and department personnel;
- (8) medical records of committed individuals; and
- (9) professional staffing requirements for medical care.

(b) The state department of health shall make an annual inspection of every health facility, health center, or hospital:

- (1) operated by the department; and
- (2) not accredited by a nationally recognized accrediting organization;

and report to the commissioner whether that facility, center, or hospital meets the requirements established by the state department of health. Any noncompliance with those requirements must be stated in writing to the commissioner, with a copy to the governor.

(c) For purposes of IC 4-22-2, the term "directive" as used in this section relates solely to internal policy and procedure not having the force of law.

(d) For purposes of subsection (a)(6), the department:

- (1) shall return medication that belonged to a Medicaid recipient; and
- (2) may return other unused medication;

to the pharmacy that dispensed the medication if the unused medication meets the requirements of IC 25-26-13-25(k)(1) through IC 25-26-13-25(k)(6).

(e) The department may establish directives concerning the return of unused medical devices or medical supplies that are used for prescription drug therapy and that meet the requirements of IC 25-26-13-25(1).

(f) A pharmacist or pharmacy that enters into an agreement with the department to accept the return of:

- (1) unused medications that meet the requirements of IC 25-26-13-25(k)(1) through IC 25-26-13-25(k)(6); or
- (2) unused medical devices or medical supplies that are used for prescription drug therapy and that meet the requirements of IC 25-26-13-25(l);

may negotiate with the department a fee for processing the returns.  
*As added by Acts 1979, P.L.120, SEC.3. Amended by P.L.2-1992, SEC.102; P.L.174-2011, SEC.1; P.L.156-2011, SEC.4; P.L.159-2012, SEC.1; P.L.117-2015, SEC.6.*

### **IC 11-10-3-5**

#### **Copayment requirements; exceptions**

Sec. 5. (a) This section does not apply to a person committed to the department who:

- (1) maintains a policy of insurance from a private company covering:
  - (A) medical care;
  - (B) dental care;
  - (C) eye care; or
  - (D) any other health care related service; or
- (2) is willing to pay for the person's own medical care.

(b) Except as provided in subsection (c), a person committed to the department may be required to make a copayment in an amount of not more than ten dollars (\$10) for each provision of any of the following services:

- (1) Medical care.
- (2) Dental care.
- (3) Eye care.
- (4) Any other health care related service.

(c) A person committed to the department is not required to make the copayment under subsection (b) if:

- (1) the person does not have funds in the person's commissary account or trust account at the time the service is provided;
- (2) the person does not have funds in the person's commissary account or trust account within thirty (30) days after the service is provided;
- (3) the service is provided in an emergency;
- (4) the service is provided as a result of an injury received in the correctional facility; or
- (5) the service is provided at the request of the administrator of the correctional facility.

(d) Money collected under this section must be used to reimburse the department whenever a person makes a copayment as a result of health care related services provided during the person's confinement in a correctional facility.

(e) The department shall adopt rules under IC 4-22-2 to implement this section.

*As added by P.L.143-1995, SEC.1.*

### **IC 11-10-3-6**

#### **Payment of medical expenses of person committed to department**

Sec. 6. (a) This section:

(1) does not apply in the case of a person who is subject to lawful detention by a county sheriff and is:

(A) covered under private health coverage for health care services; or

(B) willing to pay for the person's own health care services;

(2) does not apply to an inmate receiving inpatient services under section 7 of this chapter; and

(3) does not affect copayments required under section 5 of this chapter.

(b) The following definitions apply throughout this section:

(1) "Charge description master" means a listing of the amount charged by a hospital for each service, item, and procedure:

(A) provided by the hospital; and

(B) for which a separate charge exists.

(2) "Health care service" means the following:

(A) Medical care.

(B) Dental care.

(C) Eye care.

(D) Any other health care related service.

The term includes health care items and procedures.

(c) Except as provided in subsection (d), when the department or a county is responsible for payment for health care services provided to a person who is committed to the department, the department shall reimburse:

(1) a physician licensed under IC 25-22.5;

(2) a hospital licensed under IC 16-21-2; or

(3) another health care provider;

for the cost of a health care service at the federal Medicare reimbursement rate for the health care service provided plus four percent (4%).

(d) If there is no federal Medicare reimbursement rate for a health care service described in subsection (c), the department shall do the following:

(1) If the health care service is provided by a hospital, the department shall reimburse the hospital an amount equal to sixty-five percent (65%) of the amount charged by the hospital according to the hospital's charge description master.

(2) If the health care service is provided by a physician or another health care provider, the department shall reimburse the physician or health care provider an amount equal to sixty-five percent (65%) of the amount charged by the physician or health care provider.

*As added by P.L.229-2011, SEC.102. Amended by P.L.205-2013, SEC.169; P.L.185-2015, SEC.1.*

### **IC 11-10-3-7**

**Determination on coverage of insurance for medical care expenses; department as Medicaid authorized representative; memorandum of understanding; reimbursement for medical care**

Sec. 7. (a) If the department or a county incurs medical care expenses in providing medical care to an inmate who is committed to the department and the medical care expenses are not reimbursed, the department or the county shall attempt to determine the amount, if any, of the medical care expenses that may be paid:

(1) by a policy of insurance that is maintained by the inmate and that covers medical care, dental care, eye care, or any other health care related service; or

(2) by Medicaid.

(b) For an inmate who:

(1) is committed to the department and resides in a department facility or jail;

(2) incurs or will incur medical care expenses that are not otherwise reimbursable;

(3) is unwilling or unable to pay for the inmate's own health care services; and

(4) is potentially eligible for Medicaid (IC 12-15);

the department is the inmate's Medicaid authorized representative and may apply for Medicaid on behalf of the inmate.

(c) The department and the office of the secretary of family and social services shall enter into a written memorandum of understanding providing that the department shall reimburse the office of the secretary for administrative costs and the state share of the Medicaid costs incurred for an inmate.

(d) Reimbursement under this section for reimbursable health care services provided by a health care provider, including a hospital, to an inmate as an inpatient in a hospital must be as follows:

(1) For inmates eligible and participating in the Indiana check-up plan (IC 12-15-44.2), the reimbursement rates described in IC 12-15-44.2-14.

(2) For inmates other than those described in subdivision (1) who are eligible under the Medicaid program, the reimbursement rates provided under the Medicaid program, except that reimbursement for inpatient hospital services shall be reimbursed at rates equal to the fee-for-service rates described in IC 16-21-10-8(a)(1).

Hospital assessment fee funds collected under IC 16-21-10 or the Indiana check-up plan trust fund (IC 12-15-44.2-17) may not be used as the state share of Medicaid costs for the reimbursement of health care services provided to the inmate as an inpatient in the hospital.

*As added by P.L.205-2013, SEC.170. Amended by P.L.185-2015, SEC.2.*