

[Ind. Code § 12-15-1.3-18.]

§ 12-15-1.3-18. Increase of reimbursement rate for services: Medicaid Waivers and Plan Amendments

(a) The definitions set forth in 460 IAC 6-3 as of January 1, 2017, apply to the terms that are used in this section.

(b) The office of the secretary shall increase the reimbursement rate for services if the services are provided as follows:

(1) The services are provided to an individual who receives services under a Medicaid waiver under the federal home and community based services program.

(2) The individual is authorized under the Medicaid waiver described in subdivision (1) to receive any of the following services:

(A) Adult day services.

(B) Prevocational services.

(C) Residential habilitation and support.

(D) Respite.

(E) Supported employment and extended services as defined in the family supports Medicaid waiver.

(F) Community habilitation and participation services.

(G) Workplace assistance, as defined in the family supports Medicaid waiver and the community integration habilitation Medicaid waiver.

(H) Facility habilitation.

(I) Residential habilitation and support (RHS daily).

(J) Transportation services.

(K) Participant assistance and care, as defined in the family supports Medicaid waiver.

(L) Facility based support, as defined in the family supports Medicaid waiver and the community integration habilitation Medicaid waiver.

(3) The services are delivered to the individual by a direct care staff.

(c) The amount of the increase in the reimbursement rate described in subsection (b) for a state fiscal year beginning July 1, 2017, or thereafter is the reimbursement rate in effect as of June 30, 2017, for the services listed in subsection (b)(2) multiplied by five percent (5%).

(d) An authorized service provider shall use at least seventy-five percent (75%) of the amount of the increase in the reimbursement rate to increase the wages paid to direct care staff who:

(1) are employed by the authorized service provider to provide services in Indiana; and

(2) provide support services listed in subsection (b)(2).

(e) If a provider does not use at least seventy-five percent (75%) of the increase to increase wages paid to direct care staff, the office shall recoup part or all of the increase in the reimbursement rate that the provider receives as provided in subsection (g).

(f) An authorized service provider providing services in Indiana shall provide written and electronic notification of its plan to increase wages to:

(1) direct care staff employed by the provider; and

(2) the office of the secretary;

within thirty (30) days after the office implements an increase in reimbursement rates.

(g) The office may recoup the difference between seventy-five percent (75%) of the amount received by a provider as a result of increased reimbursement rates and the amount of the increase that is actually used by the provider to pay an increase in wages to direct care staff. The remaining twenty-five percent (25%) may be retained by the provider to cover the other employer related costs of providing direct care services, including payroll taxes, benefits, and paid time for nondirect services such as paid time off and training.

(h) Providers shall maintain all books, documents, papers, accounting records, and other evidence required to support the reporting of payroll information for increased wages to direct care staff. Wages are defined as total compensation less overtime and shift differential for direct care staff providing services to individuals receiving the services described in subsection (b)(2) as reported on the provider's payroll records. Providers shall make these materials available at their respective offices at all reasonable times and for three (3) years from the date of final payment for the services listed in subsection (b)(2) for inspection by the state or its authorized designees. Providers shall furnish copies at no cost to the state if requested.

(i) The office or its designee may recoup all or a part of the amount paid using the increased reimbursement rates based upon an audit or review of the supporting documentation required to be maintained under subsection (h) if the provider cannot provide adequate documentation to support the increased wages to direct care staff.

(j) If required, the office shall file Medicaid waiver amendments for the family supports Medicaid waiver and the community integration and habilitation Medicaid waiver related to rate increases and Medicaid waiver caps only on or before September 30, 2017, with the earliest possible effective date allowed by the federal Centers for Medicare and Medicaid Services. If the federal Centers for Medicare and Medicaid Services deny the Medicaid waiver amendments, the office may modify the waiver amendment request. If a waiver amendment is not approved, rate increases may not be granted under this section.

(k) This section may not be construed as creating an employment relationship of any kind between office staff and direct care staff of an authorized service provider.