

# Indiana

## I. Government Funded Indigent Care

### A. Poor Relief

Indiana's 1008 townships have a longstanding responsibility for the oversight and care of all poor individuals within their jurisdictions.<sup>1</sup> Indiana's poor relief laws are extraordinarily lengthy, and contain many overlapping, but slightly dissimilar, guarantees.

Indiana's courts have recognized that Indiana statutes place broad, open-ended obligations on the state's townships. Under Indiana law, townships are required "to provide to the poor all necessary relief in the most expedient manner possible."<sup>2</sup> Indiana's courts have refused to allow townships to refuse aid on any ground not specifically provided for in state law. In requiring a township to supply relief to homeless indigents in need of detoxification treatment, one court noted that "only those individuals who are specifically excluded from the statutes appear to be unentitled to relief."<sup>3</sup> Indiana's courts also have held that township fiscal considerations are not a defense to the duty to provide relief: "The statutory duty is not limited by practicality. Temporary lack of funds is not an excuse."<sup>4</sup>

Under Indiana's poor relief laws, townships have a duty to provide medical care to poor individuals who are not in public institutions. Covered services encompass all medical care that is required as a "matter of necessity," including prescribed medicines, medical supplies, medical tests and special diets.<sup>5</sup> Medical assistance under the poor relief laws includes prescription drugs and over the counter medications prescribed by a physician, office visits, dental care, repair and replacement of dentures, emergency room treatment, preoccupation testing, x-ray and lab tests, physical therapy, repair and replacement of prostheses, and insulin.<sup>6</sup>

State standards for aid are quite general. Indigent applicants are entitled to aid if they meet

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<sup>1</sup>Ind. Stat. Ann. § 12-20-5-2.

<sup>2</sup>*State ex rel. Van Buskirk v. Wayne Township*, 418 N.E.2d 234, 241-43 (Ind.App. 1981) (rejecting township's efforts to exclude shelter allowances for individuals who are buying their homes).

<sup>3</sup>*Center Township of Marion County v. Coe*, 527 N.E.2d 1350, 1357 (Ind.App. 1991).

<sup>4</sup>*Id.* at 1358

<sup>5</sup>Ind. Stat. Ann. § 12-20-6-2.

<sup>6</sup>Ind. Stat. Ann. § 12-20-16-2. Medical care available to the indigent under Part 16 of Indiana's Poor Relief Law is limited to these services. As noted above, the scope of available medical care available under Part 6 of the Poor Relief Law is broader and, with some exceptions, less specific. The existence of both of these statutes suggests that townships are required to provide both categories of medical care to the poor.

residency requirements, by locating in the county and by forming the intent to make the county their sole place of residence.<sup>7</sup> Townships also have a broad general duty, to provide emergency assistance to all individuals who are sick, in need, without resources and likely to suffer without assistance.<sup>8</sup> To meet this duty townships are required to provide temporary assistance for the relief of immediate suffering.

In addition, non-resident children and their parents and individuals who are unable to work or travel due to age or disability are eligible for temporary assistance.<sup>9</sup> Indiana law permits townships to provide transportation to any non-resident indigent who receives temporary assistance to her last place of residence.<sup>10</sup> The legislature recently strengthened this provision to allow a township to deny aid to an indigent previously removed from its jurisdiction for up to 180 days upon his return.

Under state law, townships must require non-disabled applicants to seek employment and must put indigent recipients to work on any project needed to be done within the county.<sup>11</sup> As a condition of receiving benefits, applicants must file for other forms of federal and state aid.<sup>12</sup> Individuals who are eligible for services under Medicaid, Medicare or Indiana's Hospital Care for the Indigent Program, discussed *infra*, are ineligible for medical care under the poor relief laws.<sup>13</sup> Townships may provide interim assistance to individuals who are not yet receiving other benefits while their applications are pending.

Townships are required to establish uniform standards governing financial eligibility and work requirements for all applicants for poor relief.<sup>14</sup> Townships that have assisted fifty or less households in the preceding two years are exempt from this requirement. The income standards set by townships must be consistent with the basic cost of necessities in the area, and must be revised on an annual basis to reflect changes in the basic cost of necessities.<sup>15</sup>

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<sup>7</sup>Ind. Stat. Ann. § 12-20-8-1.

<sup>8</sup>Ind. Stat. Ann. § 12-20-17-3.

<sup>9</sup>Ind. Stat. Ann. § 12-20-9-2.

<sup>10</sup>Ind. Stat. Ann. § 12-20-9-3. While this provision permits townships to remove non-residents to their last known place of residence, the statute is no longer used to forcibly transport non-residents out of the county.

<sup>11</sup>Ind. Stat. Ann. §§ 12-20-10-1 and 12-20-11-1(a). Minors, recipients who are over 65 or disabled and students attending classes at Ivy Tech State College are exempt from this requirement. Ind. Stat. Ann. § 12-20-11-1.

<sup>12</sup>Ind. Stat. Ann. § 12-20-6-5.5

<sup>13</sup>Ind. Stat. Ann. § 12-20-16-2.

<sup>14</sup>Ind. Stat. Ann. § 12-20-5.5-1.

<sup>15</sup>Ind. Stat. Ann. § 12-20-5.5-6.

Townships pay for poor relief through property tax levies.<sup>16</sup> Townships may also raise funds for poor relief through long term borrowing, if they have enacted an ad valorem tax of five cents per hundred dollars on assessed property within their jurisdictions.<sup>17</sup> Townships may also obtain short-term loans from counties to cover shortfalls.<sup>18</sup>

State law provides for the state to take control of poor relief programs in financially distressed townships and to pay for any costs the township is unable to cover from a state fund established for this purpose.<sup>19</sup> To qualify for this relief, a township must have imposed and dedicated to poor relief at least 90 percent of the maximum permissible ad valorem tax allowed by state law and have outstanding indebtedness of more than 1.8 percent of the township's assessed valuation.

#### B. County Homes

Indiana law provides for the establishment of county homes for the indigent. Townships are empowered to order all poor people who are county charges "be removed to the county home."<sup>20</sup> Counties must make prompt arrangements for necessary medical care to all residents of county homes.<sup>21</sup>

#### C. The Hospital Care for the Indigent Program

Indiana also has established a program to pay for emergency medical care provided to indigent patients. Under the Hospital Care for the Indigent (HCI) Program, citizens and permanent residents who meet income and resource guidelines established by the Indiana Division of Family and Children are eligible for assistance to pay hospital costs in cases where the failure to provide immediate care probably would place the patient's life in jeopardy, cause serious impairment to bodily functions or resulted in serious dysfunction of a body organ or part.<sup>22</sup>

Only hospitals are entitled to reimbursement under the HCI Program.<sup>23</sup> In addition, the HCI Program only covers emergency care. It does not cover services provided after a patient has stabilized

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<sup>16</sup>Ind. Stat. Ann. § 12-20-21-1 *et seq.*

<sup>17</sup>Ind. Stat. Ann. §§ 12-20-20-1, 12-20-23-1 and 12-20-23-2.

<sup>18</sup>Ind. Stat. Ann. § 12-20-24-1 *et seq.*

<sup>19</sup>Ind. Stat. Ann. § 12-20-25-1 *et seq.*

<sup>20</sup>Ind. Stat. Ann. § 12-30-1-1 *et seq.* Townships must pay counties for the costs of maintaining indigent residents at county homes. Ind. Stat. Ann. § 12-30-4-2.

<sup>21</sup>Ind. Stat. Ann. § 12-30-3-15.

<sup>22</sup>Ind. Stat. Ann. § 12-16-2-1.

<sup>23</sup>*Gary Community Mental Health Center, Inc. v. Dep't of Public Welfare*, 507 N.E.2d 1019 (Ind.App. 1987) (State properly denied payments under HCI Program to separate mental health facility located on grounds of hospital).

and can be safely discharged.<sup>24</sup> Private hospitals must transfer patients to publicly owned facilities as soon as the attending physician determines that the patient's transfer would not cause injury to the patient.<sup>25</sup>

In analyzing provider claims under the statute, Indiana's courts have stressed the narrow scope of the HCI Program. In rejecting one hospital's claims for drug treatment provided to an addict who regularly ingested lethal amounts of cocaine, the court noted that at the time of admission, the patient had exhibited no symptoms that indicated that the failure to provide immediate treatment would have placed her life in jeopardy.<sup>26</sup> However, the courts have allowed claims for treatment of suicidal patients and patients threatened with imminent heart failure based upon the emergency nature of their care.<sup>27</sup>

Residents, and non-residents who have suffered the onset of symptoms requiring hospitalization in Indiana, are eligible for HCI benefits. HCI covers the necessary costs of medical care and transportation to medical facilities. However, patients are liable for reimbursement provided to hospitals for their care under the HCI Program.<sup>28</sup>

To obtain reimbursement, hospitals must file an application within 30 days after the patient's admission.<sup>29</sup> While hospitals must make a reasonable effort to determine if a patient meets the criteria for reimbursement under the HCI Program, the courts have allowed hospitals to file late claims in cases where they did not have a reasonable opportunity to determine the patient's financial status within the time allowed by statute.<sup>30</sup>

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<sup>24</sup>Ind. Stat. Ann. § 12-16-7-7.

<sup>25</sup>Ind. Stat. Ann. § 12-16-12-3.

<sup>26</sup>*Memorial Hosp. of South Bend v. Dep't of Public Welfare*, 564 N.E.2d 299 (Ind.App. 1990). See also *Lutheran Hosp. of South Bend v. Dep't of Public Welfare*, 597 N.E.2d 301 (Ind.App. 1992) (rehabilitative treatment for patients suffering from alcohol and drug abuse following detoxification is not emergency care covered by HCI).

<sup>27</sup>See *County Dep't of Public Welfare v. Deaconess Hosp.*, 588 N.E.2d 1322 (Ind.App. 1992) (hospital entitled to reimbursement for treatment of patient contemplating suicide, notwithstanding absence of suicidal gestures); *Lutheran Hosp. of Indiana v. State of Indiana*, 623 N.E.2d 450 (Ind.App. 1993) (State improperly denied reimbursement for heart valve surgery for heart patient "on the precipice of congestive heart failure").

<sup>28</sup>Ind. Stat. Ann. § 12-16-11-1.

<sup>29</sup>Ind. Stat. Ann. § 12-16-4-1.

<sup>30</sup>*Compare St. Mary's Medical Center v. County Dep't of Public Welfare*, 495 N.E.2d 773 (Ind.App. 1986) (late claim barred where hospital did not adequately pursue information from patient's family within statutory period) with *Putnam County Dep't of Public Welfare v. Methodist Hosp. of Indiana*, 487 N.E.2d 1315 (Ind.App. 1986) (late claim allowed where patient was incapacitated throughout statutory period and hospital had no contact with patient's family).

Counties must fund a portion of the cost of providing medical care under the HCI Program through property tax, financial institution tax and vehicle excise tax revenues deposited into a special fund for this purpose.<sup>31</sup> These funds are transferred to the state, which maintains a state HCI fund consisting of county funds, private contributions and state appropriations from the General Assembly.<sup>32</sup> The General Assembly is not obligated to appropriate state funds to pay hospital claims under the HCI Program, but it does pay claims to the extent their are sufficient funds to pay them.<sup>33</sup> To the extent HCI funds are insufficient to meet hospital claims, hospitals receive their pro rata share of available funds based upon the total amount of their claims for the year.

#### D. Behavioral Health Services

Indiana funds behavioral health and addiction services.<sup>34</sup> Within the limit of available appropriations, Indiana contracts with managed care providers to provide a continuum of care to mentally ill individuals in the least restrictive setting available. The Division of Mental Health sets criteria for publicly funded services, based upon diagnosis, level of daily functioning and financial need.

#### E. Other Services

Needy children in foster homes and other out-of-home placements are eligible for assistance, which may include medical care.<sup>35</sup> State law also provides for the establishment of early intervention services to children under three years of age to prevent physical, emotional, cognitive and developmental disabilities.<sup>36</sup> Services under this program include physical, occupational and speech therapy, supportive technology, psychological services and vision and health services. In addition, the state funds other health programs that provide care to the poor, including free vaccines for patients unable to afford them,<sup>37</sup> treatment for sickle cell anemia,<sup>38</sup> maternal and child health programs,<sup>39</sup> a fund for children with special health needs,<sup>40</sup> treatment and testing for newborns with metabolic disorders,<sup>41</sup> hemophilia

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<sup>31</sup>Ind. Stat. Ann. § 12-16-14-1.

<sup>32</sup>Ind. Stat. Ann. § 12-16-14-6

<sup>33</sup>Ind. Stat. Ann. § 12-16-7-4.

<sup>34</sup>Ind. Stat. Ann. § 12-21-5-1.5 *et seq.*

<sup>35</sup>Ind. Stat. Ann. § 12-17-1-1 *et seq.*

<sup>36</sup>Ind. Stat. Ann. § 12-17-5-3.

<sup>37</sup>Ind. Stat. Ann. § 16-41-19-1.

<sup>38</sup>Ind. Stat. Ann. § 16-46-7-1.

<sup>39</sup>Ind. Stat. Ann. § 16-35-1-1.

<sup>40</sup>Ind. Stat. Ann. § 16-35-4-1.

<sup>41</sup>Ind. Stat. Ann. § 16-41-17-1 *et seq.*

treatment,<sup>42</sup> tuberculosis treatment,<sup>43</sup> and a program to assist AIDS patients in obtaining needed drugs.<sup>44</sup>

## II. State Efforts to Expand Care or Coverage for the Uninsured

### A. Commission on Health Care Issues for the Working Poor

The state has established a Commission on Health Care Issues for the Working Poor that is charged with identifying means to provide the working poor with increased health care coverage.<sup>45</sup> The commission is studying the possibility of providing coverage through the private insurance market or through the use of public funds.

### B. Comprehensive Health Insurance Program

The state has established a high risk pool for individuals who have been rejected for coverage by at least one insurer.<sup>46</sup> While the package of benefits is quite comprehensive, the premiums for the program are quite high, making coverage under this program out of reach for most low income residents.

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<sup>42</sup>Ind. Stat. Ann. § 16-41-18-1 *et seq.*

<sup>43</sup>Ind. Stat. Ann. § 16-41-18-1 *et seq.*

<sup>44</sup>Ind. Stat. Ann. § 16-19-3-24.

<sup>45</sup>Ind. Stat. Ann. § 2-4-1A-11.

<sup>46</sup>Ind. Stat. Ann. § 27-8-10-5.1.