



Michael R. Pence, Governor
State of Indiana

Indiana Family and Social Services Administration
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FSSA's Family Impact Statement for Proposed Rule – Nursing and ABA Therapy Services

Executive Order 13-05 (the "Order") requires the Family and Social Services Administration ("FSSA") to assess a policy or proposed rule's impact on family formation and general well-being and to certify its compliance with the Order. FSSA hereby submits this certification that it has assessed the proposed rule's impact on family formation and general well-being based on the enumerated considerations listed in the Order.

Background and summary of the rule

The proposed rule both amends and adds a section to Title 405 of the Indiana Administrative Code. The primary purpose of the rule change is to align FSSA policy regarding nursing and therapy services with a permanent injunction issued in *A.M.T., et al. v. Gargano*, U.S. District Court for the Southern District of Indiana, Cause No. 1:10-cv-0358-JMS-TAB (Feb. 10, 2011). Specifically, the proposed rule provides that FSSA will cover services for individuals under age twenty-one and makes necessary updates to definitions and coverage requirements in compliance with the injunction. The proposed rule also amends certain definitions set forth in 405 IAC 5-22-1 to clearly delineate the therapy services covered. Finally, the proposed rule adds a section authorizing the coverage of Applied Behavioral Analysis ("ABA") services and outlines coverage and eligibility requirements.

FSSA has not yet scheduled a public hearing for this proposed rule. We will notify you of the public hearing once known if we have not yet received your approval.

Impact of the proposed rule on the family well-being or family formation

FSSA assessed the proposed rule's impact on family formation and well-being in light of the six considerations enumerated in the Order. The proposed rule merely codifies existing policy pursuant to the court order and makes ABA services available for reimbursement. Accordingly, FSSA expects that the proposed rule will have a **neutral** impact on family well-being or family formation. FSSA's response to the enumerated measures is as follows:

1) Whether or not this action by government strengthens or erodes the stability of the family and the marital commitment.

Response: the proposed rule codifies existing policies regarding nursing and physical therapy services to comply with a court order and makes ABA services reimbursable under the Medicaid program. In essence, these changes make services available to help



individuals rehabilitate and become better functioning adults. Therefore, the proposed rule does not directly strengthen or erode the stability of the marital commitment.

2) **Whether or not this action encourages or discourages non-marital childbearing.**

Response: the proposed rule codifies existing policies regarding nursing and physical therapy services to comply with a court order and makes ABA services reimbursable under the Medicaid program. In essence, these changes make services available to help individuals rehabilitate and become better functioning adults. Therefore, the proposed rule does not encourage or discourage non-marital childbearing.

3) **Whether or not this action respects or inhibits the rights of parents to raise their children and make the best choices about their children's education, health, and well-being.**

Response: the proposed rule codifies existing policies regarding nursing and physical therapy services to comply with a court order and makes ABA services reimbursable under the Medicaid program. In essence, these changes make services available to help individuals rehabilitate and become better functioning adults. Parents remain free to decide whether and to what extent their children can receive these services. Therefore, the proposed rule does not inhibit the rights of parents to raise their children and make parental choices.

4) **Whether or not this action increases or decreases private family earnings or the incentive for parents to provide materially and emotionally for their children.**

Response: the proposed rule codifies existing policies regarding nursing and physical therapy services to comply with a court order and makes ABA services reimbursable under the Medicaid program. In essence, these changes make services available to help individuals rehabilitate and become better functioning adults. FSSA has no evidence that its policy effective via the court order has created a disincentive for parents to provide for their children. Therefore, the proposed rule neither increases nor decreases family earnings or the incentive for parents to provide for their children.

5) **What message, intended or otherwise, does this program send to the public concerning the status of the family?**

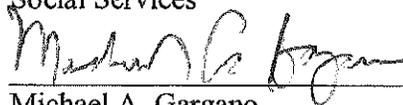
Response: the proposed rule codifies existing policies regarding nursing and physical therapy services to comply with a court order and makes ABA services reimbursable under the Medicaid program. In essence, these changes make services available to help individuals rehabilitate and become better functioning adults. Therefore, the proposed rule does not send any message, positive or negative, concerning the status of the family.

6) **What message does the action send to children about the relationship between their present choices and their future well-being?**

Response: the proposed rule codifies existing policies regarding nursing and physical therapy services to comply with a court order and makes ABA services reimbursable

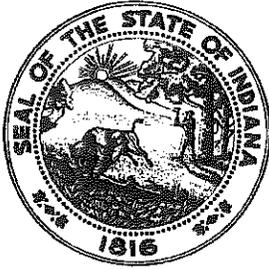
under the Medicaid program. In essence, these changes make services available to help individuals rehabilitate and become better functioning adults. Those receiving these services are in a better position to make positive choices both presently and in the future. Therefore, the proposed rule does not send a negative message to individuals concerning the relationship between present choices and future well-being.

Office of the Secretary of Family and
Social Services



Michael A. Gargano

Interim Secretary



Family Impact Assessment

Documentation of new Policies and Rules

Pursuant to Section 2(a)-(f) of Executive Order 13-05:

In formulating and implementing policies and rules that may have a significant impact on family formation and general well-being, the agencies listed in Section 1 of Executive Order 13-05 shall assess such measures in light of the following considerations:

- 1) **Whether or not this action by government strengthens or erodes the stability of the family and the marital commitment.**
- 2) **Whether or not this action encourages or discourages non-marital childbearing.**
- 3) **Whether or not this action respects or inhibits the rights of parents to raise their children and make the best choices about their children's education, health, and well-being.**
- 4) **Whether or not this action increases or decreases private family earnings or the incentive for parents to provide materially and emotionally for their children.**
- 5) **What message, intended or otherwise, does this program send to the public concerning the status of the family?**
- 6) **What message does the action send to children about the relationship between their present choices and their future well-being?**

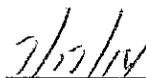
These assessments should be answered on a separate document attached to this submission form and clearly marked as answers to considerations 1-6. If an agency does not think that a consideration applies to their proposal, the agency must include an explanation of why the consideration does not apply. Additionally, if the proposal contains a potentially negative impact on family well-being or family formation, the agency must include an explanation of why the proposal is necessary.

This submission form and the agency assessments should be submitted simultaneously with the proposed policy or rule to the Office of Management and Budget.

By signing below, the agency head certifies that they are aware of the Family Impact Assessment, and all information submitted is accurate to the best of their knowledge.



Michael A. Gargano, Interim Secretary, FSSA



Date



Agency

Proposed Rule: nursing and applied behavioral analysis therapy services