Readoption Review

410 IAC 1-7 - HIV Counseling and Testing of Pregnant Patients

IC 4-22-2.5-3.1(c) requires an agency to conduct a review to consider whether there are alternative methods of achieving the purpose of the rule that are less costly or less intrusive, or that would minimize the economic impact of the proposed rule on small business.

Description of Rule:

Points of Interest

Consent:
- HIV testing of pregnant women is required by law in Indiana except when refused in writing. There is no requirement for written consent for testing.

Pregnant Women who refuse HIV Screening:
- Pregnant women must refuse HIV screening in writing.

Screening Infants:
- Infants can be screened for HIV without the consent of mother within 48 hours of life, if the medical provider believes that it is medically necessary.

This rule sets the standards for providers’ responsibilities to pregnant women who have been tested for HIV, including what information is to be provided and how it should be provided. The rule also includes procedures for placing pregnant women on a waiting list for the medical services program if there is a waiting list.

Readoption Analysis:

1) Is there a continued need for this rule?
Yes, current Indiana law requires all health care providers to offer all pregnant women an HIV test along with their other prenatal tests. The woman may opt-out. Medical studies indicate that pregnant women who are HIV positive can reduce the risk of passing HIV to their children by two-thirds with proper perinatal care and anti-viral treatment during pregnancy, labor, delivery, and to the child after birth. In order to ensure that appropriate information, counseling, and testing are provided to pregnant women, the Indiana State Department of Health has formulated a rule that facilitates provider compliance with the law.

Adults are not the only persons impacted by this disease. In fact, 95% of pediatric HIV disease occurs when the virus is unknowingly transmitted from the mother to baby during pregnancy/delivery. Recently, medical science has reduced the risk of perinatal (mother to baby) transmission from 35% to an astonishing 1-2%. This reduction is a result of early identification of HIV in pregnant women, controlling maternal disease with intervening medications, maintaining healthy lives, and protecting the baby from infection.

2) What is the nature of any complaints or comments received from the public, including small business, concerning the rule or the implementation of the rule by the agency?
As a response, and out of concern for mothers and children, several groups decided to join together to evaluate the barriers to testing and maximize Indiana’s prevention of mother to baby transmission of HIV. As a result, in December of 2009, the One Test Two Lives: Prevent HIV Indiana initiative began in Indiana. The purpose of this campaign is to educate and empower women to manage their risk of HIV transmission during pregnancy, educate providers and make available to them the appropriate tools and knowledge regarding screening, and effect legislation that would provide maximum protection from transmission by promoting and streamlining testing requirements. This group includes (but not limited to) Health & Hospital Corp (Marion County), Indiana Perinatal Network, Indiana State Dept. of Health, Indiana University National Center of Excellence in Women’s Health, Midwest AIDS Training & Education Center (MATEC) and Ryan White Center for Pediatric Infectious Disease.

ISDH is not aware of any complaints from the public about this rule.

3) Examine the complexity of the rule, including difficulties encountered by the agency in administering the rule and small businesses in complying with the rule.

The rule was initially filed on Jun 25, 2004 and then readopted on July 15, 2010. There are no current difficulties in administering the rule.

4) To what extent does the rule overlap, duplicate, or conflict with other federal, state, or local laws, rules, regulations, or ordinances?

IC 16-41-6 establishes standards for HIV testing, including the standards for the testing pregnant women. While many of the requirements of IC 16-41-6 match those in 410 IAC 1-7, the rule expands upon the requirements and gives the providers with more detail of how to implement the requirements.

5) When was the last time the rule was reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by this rule since that time?

The rule was initially filed on Jun 25, 2004 and then readopted on July 15, 2010. Technology and other factors have not significantly changed since the rule was last reviewed.

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