

REVISED EMERGENCY DETENTION PROCEDURES BEGIN IN INDIANA ON JULY 1, 2024

After sweeping updates to Indiana's emergency detention and involuntary commitment laws last year, the General Assembly made additional updates in 2024 in [House Enrolled Act No. 1216](#). These changes begin impacting how providers apply for emergency detentions on **July 1, 2024**.

BACKGROUND

Last year, Indiana rewrote its emergency detention laws to provide more treatment with less court intervention. [House Enrolled Act No. 1006](#) expanded emergency detentions to 14 business days, revised how emergency detentions are instituted, defined treatment during emergency detention to be medically necessary and instituted a new Application for Emergency Detention ("AED").

This year, the General Assembly has revised the law again to incorporate two key refinements to the process: (1) expanding the scope of the physicians' probable cause attestations; and (2) clarifying reimbursement requirements for individuals receiving care.

UPDATED PROCEDURES

(1) Physician's Probable Cause Attestation

Until July 1, 2024, a physician must still sign the AED and attest the individual is mentally ill and either dangerous or gravely disabled based on an examination by a physician, advanced practice registered nurse or physician assistant.

After July 1, 2024, this attestation can be based on an examination **or** "information given to a physician, advanced practice registered nurse, or physician assistant." This significant update recognizes how patients and treatment teams interact and share information. With this adjustment, physicians can incorporate credible information provided by others into their determination.

(2) Medicaid Reimbursement Changes

The updated statute alters how Medicaid reimburses for the care and treatment of its emergently detained recipients. Previously, Medicaid could evaluate the medical necessity of the treatment rendered during an emergency detention. As revised, the statute requires Medicaid to reimburse for covered services, **regardless** of medical necessity, for the earlier of:

- A period not to exceed 14 business days; or
- The date of a final hearing under [I.C. 12-26-5-11](#).

UPDATED FORM

Indiana has updated the required [AED Form](#) providers must use when applying to file an AED in the state. The new form accounts for the change in probable cause attestation. As before, the AED provides judicial officers with a uniform order requiring:

- **Consistency for Requesting Commitment** - The form requires providers to request commitment within seven days of detention.
- **Consistency upon Discharge** - The provider is required to notify the court where the AED was filed immediately upon determining that the patient will be discharged and commitment will not be sought.

PRACTICAL TAKEAWAYS

Physicians must still sign AEDs, but they are now explicitly able to rely on information from others when determining whether a patient is mentally ill, gravely disabled and/or dangerous. Collateral information physicians receive from their treatment teams, the patient's family members or friends, or law enforcement can play a larger role in this determination. Additionally, Medicaid (and contracted payors) may not challenge the medical necessity of services provided to emergently detained beneficiaries.

This change impacts both reimbursement and day-to-day operations. In the coming months, courts will be adapting their expectations of

providers while they implement these changes. To best adapt to these revisions, providers should ensure internal practices and policies are revised in parallel.

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