

Dear Senators HEIDER, Nuxoll, Schmidt, and
Representatives WOOD, Packer, Rusche:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Health and Welfare:

IDAPA 16.02.01 - Rules of the Idaho Time Sensitive Emergency System Council - Proposed Rule
and Amendment to Temporary Rule (Docket No. 16-0201-1401);

IDAPA 16.03.09 - Medicaid Basic Plan Benefits - Proposed Rule (Docket No. 16-0309-1503).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/02/2015. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/30/2015.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 14, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.02.01 - Rules of the Idaho Time Sensitive Emergency System Council - Proposed Rule and Amendment to Temporary Rule (Docket No. 16-0201-1401)

IDAPA 16.03.09 - Medicaid Basic Plan Benefits - Proposed Rule (Docket No. 16-0309-1503)

The Department of Health and Welfare submits notice of temporary and proposed rulemaking at IDAPA 16.02.01 and 16.03.09.

IDAPA 16.02.01

In 2014, the Legislature authorized a system of care for time sensitive emergencies, codified at Sections 56-1024 through 56-1030, Idaho Code. A new chapter of temporary rules, 16.02.01, was adopted to organize the system and establish standards for time sensitive emergencies. This rule, effective July 1, 2015, amends the temporary rule to reflect nationally accepted practices and establish fees for hospitals that volunteer to be designated as trauma, stroke, or heart attack centers. The fees will allow the time sensitive emergency system to be largely self-supporting. This rule is also a proposed rule, adoption of which would make this chapter of rules permanent.

The Governor has found that the temporary rule is justified to protect public health and safety and that the fees imposed are necessary to avoid immediate danger. There is no anticipated impact on the state general fund. Negotiated rulemaking was conducted. The Department states that this rulemaking is authorized by Sections 56-1024 through 56-1030, Idaho Code.

IDAPA 16.03.09

This proposed rule relates to Medicaid. It amends the existing rule to clarify exceptions to third-party liability for early and periodic screening and diagnosis services that are billed to third-party insurers.

Negotiated rulemaking was not conducted, based on the nature of the rule, which is to conform to federal law, specifically 42 U.S.C. 1396a(a)(25)(E). There is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized by Sections 56-202, 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code.

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

cc: Department of Health and Welfare
Tamara Prisock

COST/BENEFIT ANALYSIS FORM

Department of Health and Welfare
Administrative Procedures Unit (ARU)

Docket Number: 16-0201-1401

Agency Contact: Wayne Denny
Phone: 334-4000

Rules Specialist: Bev Barr
Phone: 334-5736

Date Analysis Completed: 9/19/14

IDAPA Chapter Number and Title: IDAPA 16.02.01, "Rules of the Idaho Time Sensitive Emergency System Council"

Fee Rule Status: Proposed Temporary **Effective dates:** 1/1/15T & 7/1/15T

Instructions:

Section 67-5223(3), Idaho Code, requires that all proposed rules in which a fee or charge is imposed or increased must include a statement of economic impact (cost/benefit analysis) of the rule change at the time the rule text is submitted for publication. This analysis needs to include an estimated cost to the agency to implement the rule and an estimated cost to be borne by citizens, or the private sector, or both.

Cost/Benefit Analysis For This Rule Change:

The Time Sensitive Emergency System Council received \$225,800 in one-time funds for SFY 2015 for startup costs. It is anticipated that by the end of SFY 2016, the fees collected from the participating hospitals will allow the TSE program to be mostly self supporting.

Anticipated savings due to better response times and outcomes for individuals being treated faster during a time sensitive emergency is hard to calculate at this time. The hope is that better responses, better outcomes, less time spent in hospitals, means less costs for individuals and 3rd-party payers.

The Time Sensitive Emergency (TSE) Council is setting fees that hospitals that choose to participate in the TSE system will pay. The Department is unable to anticipate the amount of fees that will be paid, until the rules, application process, and designation criteria are implemented and hospitals choose to apply for designations.

Hospitals will seek designation as trauma, stroke, or heart attack facilities. A facility may choose to be designated for more than one designation which would then determine the amount of the fee to be paid.

Designations will be on a 3-year cycle, and the fees will be paid based on designation levels, number of designations requested, and whether a site-review is needed. The designation fee may be paid over the 3-year cycle in equal increments.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.01 - RULES OF THE IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL

DOCKET NO. 16-0201-1401 (NEW CHAPTER, FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendments to the temporary rule is July 1, 2015.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has amended a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-1024 through 56-1030, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for amending a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2014 Legislature authorized the Idaho Time Sensitive Emergency (TSE) System of Care, a TSE Council, and Regional TSE Committees. Temporary rules were adopted to set standards, regions, regional committees, fees, and other requirements for the time sensitive emergencies related to trauma. The current temporary rules are being published as proposed with amendments being made to the temporary rule. Negotiations have been ongoing to determine the criteria and standards for designation related to Stroke and Heart Attack Centers based on nationally accepted practices. The proposed new chapter of rule includes:

1. Regions based on community input, the TSE Council, and regional TSE committees;
2. Standards and requirements for a statewide emergency system for trauma, stroke, and heart attack designations that have been negotiated based on nationally accepted practices;
3. Criteria of designation levels, fees, application processes, on-site survey and inspections, waiver policy, enforcement remedies for probation, suspension, revocation, and appeals of Department actions;
4. Required sections to meet the requirements of the APA and the rules of the Office of the Administrative Rules Coordinator; and
5. Amendments to the temporary rules based on legislative intent.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1), (a), and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This new chapter of rules for the TSE Council was adopted as a temporary rule with an effective date of January 1, 2015, to protect the public health, safety, or welfare. Statutes establishing the Idaho Time Sensitive Emergency System were effective on July 1, 2014. The Governor has found that the fees being charged in this rule are necessary to avoid immediate danger and are justified as a temporary rule.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Fees are being charged on a voluntary basis for hospitals that choose to become designated as trauma, stroke, or heart attack centers. Fees are being charged on a 3-year cycle per designation level and type of center that is payable on an annual basis. Fees may also be charged for on-site surveys that are required for certain designation levels.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The fiscal impact to the state general fund as appropriated by the Legislature for SFY 2015 is \$225,800.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted as provided in the September 3, 2014, [Idaho Administrative Bulletin, Vol. 14-9, page 187](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, a document is being incorporated by reference into these rules to give it the force and effect of law. The document is not being reprinted in this chapter of rules due to its length, format, and the cost for republication. The document being incorporated by reference is the Time Sensitive Emergency System Standards Manual, Edition 2015-2.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Christian Surjan at (208) 334-6564.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 22, 2015.

DATED this 5th Day of June, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Tel: (208) 334-5500 / Fax: (208) 334-6558
Email: dhwrules@dhw.idaho.gov

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

**This docket has been previously published as a temporary rule.
The temporary effective date is January 1, 2015.**

**The original text of the temporary rule was published in the Idaho Administrative Bulletin,
[Volume 15-2, February 4, 2015, pages 21 through 33.](#)**

**THE FOLLOWING IS THE PROPOSED TEXT AND THE AMENDED TEMPORARY RULE
FOR DOCKET NO. 16-0201-1401**

**IDAPA 16
TITLE 02
CHAPTER 01**

16.02.01 - RULES OF THE IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL

000. LEGAL AUTHORITY.

The Idaho Time Sensitive Emergency System Council (TSE) is authorized under Section 56-1028, Idaho Code, to

promulgate rules for the purpose of establishing standards and for the administration of a voluntary time sensitive emergency system of care. Sections 56-1024 through 56-1030, Idaho Code, provide requirements for the TSE Council, its membership, duties, regional TSE committees, standards criteria, and the designation of centers. The Department is authorized to charge and collect fees established by rule under Section 56-1007, Idaho Code, and to establish and collect data for a Time Sensitive Emergency (TSE) Registry under Section 57-2003, Idaho Code. (1-1-15)T

001. TITLE, SCOPE, AND INTENT.

01. Title. The title of these rules is IDAPA 16.02.01, “Rules of the Idaho Time Sensitive Emergency System Council.” (1-1-15)T

02. Scope. These rules provide for the administration and establishment of standards for a voluntary statewide time sensitive emergency system of care that includes procedures and requirements for designation of trauma, stroke, and heart attack centers including data reporting, fees, appeal process and enforcement procedures, determination of regions to provide an effective access to the TSE system within the state, and operational procedures for regional TSE committees. (1-1-15)T

03. Intent. With the maturation of the Time Sensitive Emergency System (TSE), the intent is for the state to have the ability to designate TSE centers without reliance on national accreditation bodies. The TSE Council, upon review of appropriate documentation, may provide reciprocity for facilities in Idaho that also choose to operate under a designation in a neighboring state’s system. (1-1-15)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department may have written statements that pertain to the interpretation of this chapter, or to the documentation of compliance with these rules. (1-1-15)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals and contested cases are governed by the provisions of IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings.” (1-1-15)T

004. INCORPORATION BY REFERENCE.

The Time Sensitive Emergency System Standards Manual, Edition 2015-~~12~~, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at www.tse.idaho.gov or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID 83712-8249.

~~(1-1-15)T~~ (7-1-15)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (1-1-15)T

02. Mailing Address. (1-1-15)T

a. Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (1-1-15)T

b. Idaho Time Sensitive Emergency System Council, 2224 E. Old Penitentiary Road, Boise, Idaho 83712-8249. (1-1-15)T

03. Street Address. (1-1-15)T

a. The Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (1-1-15)T

b. The Bureau of Emergency Medical Services and Preparedness is located at 2224 E. Old Penitentiary Road, Boise, Idaho 83712. (1-1-15)T

- 04. Telephone.** (1-1-15)T
- a.** The Idaho Department of Health and Welfare number is (208) 334-5500. (1-1-15)T
- b.** The Bureau of Emergency Medical Services and Preparedness number is (208) 334-4000. The toll-free phone number is 1 (877) 554-3367. (1-1-15)T
- 05. Internet Websites.** (1-1-15)T
- a.** The Department internet website is found at <http://www.healthandwelfare.idaho.gov>. (1-1-15)T
- b.** The Time Sensitive Emergency System Council internet website is found at <http://www.tse.idaho.gov>. (1-1-15)T
- c.** The Bureau of Emergency Medical Services and Preparedness internet website is found at <http://www.idahoems.org>. (1-1-15)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.

01. Confidentiality of Records. Any disclosure of confidential information used or disclosed in the course of the TSE Council's business is subject to the restrictions in state or federal law, and must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (1-1-15)T

02. Public Records Act. The Department will comply with Title 74 Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (1-1-15)T

03. Public Availability of Preliminary Investigations, Site Reviews, and Survey Reports. Preliminary investigations and related documents are confidential until a notice of action is issued for survey reports and findings of complaint investigations relating to a designated center. Documents that are available for public review may be found at <http://www.tse.idaho.gov>. (1-1-15)T

007. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of this chapter, the following terms and definitions apply. (1-1-15)T

01. American College of Surgeons (ACS). The American College of Surgeons (ACS) is a national body that sets standards and verifies compliance with published standards. (1-1-15)T

02. Department. The Idaho Department of Health and Welfare. (1-1-15)T

03. Director. The Director of the Idaho Department of Health and Welfare or his designee. (1-1-15)T

04. Division. The Division of Public Health, Idaho Department of Health and Welfare. (1-1-15)T

05. EMS Agency. Any organization licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements," that operates an air medical service, ambulance service, or non-transport service. (1-1-15)T

06. EMS Bureau. The Bureau of Emergency Medical Services (EMS) & Preparedness of the Idaho Department of Health and Welfare. (1-1-15)T

07. Facility. A health care organization that is voluntarily seeking designation from the Idaho Time Sensitive Emergency Council. A facility may be any of the following: (1-1-15)T

- a.** Center. A facility designated by the Idaho Time Sensitive Emergency Council is known as a center. (1-1-15)T
- b.** Freestanding emergency department: (1-1-15)T
- i.** Is owned by a hospital with a dedicated emergency department; (1-1-15)T
- ii.** Is located within 35 miles of the hospital that owns or controls it; (1-1-15)T
- iii.** Provides emergency services twenty-four (24) hours per day, seven (7) days per week on an outpatient basis; (1-1-15)T
- iv.** Is physically separate from a hospital; and (1-1-15)T
- v.** Meets the staffing and service requirements in IDAPA 16.03.14, “Rules and Minimum Standards for Hospitals in Idaho.” (1-1-15)T
- c.** Hospital. As defined in Section 39-1301, Idaho Code, is a facility which is primarily engaged in providing, by or under the daily supervision of physicians: (1-1-15)T
- i.** Concentrated medical and nursing care on a twenty-four (24) hour basis to inpatients experiencing acute illness; (1-1-15)T
- ii.** Diagnostic and therapeutic services for medical diagnosis and treatment, psychiatric diagnosis and treatment, and care of injured, disabled, or sick persons; (1-1-15)T
- iii.** Rehabilitation services for injured, disabled, or sick persons; (1-1-15)T
- iv.** Obstetrical care; (1-1-15)T
- v.** Provides for care of two (2) or more individuals for twenty-four (24) or more consecutive hours; (1-1-15)T
- and
- vi.** Is staffed to provide nursing professional nursing care on a twenty-four (24) hour basis. (1-1-15)T
- d.** Rural Clinic. A health care clinic in a rural area that is located more than thirty-five (35) miles from a hospital via maintained roads and is capable of providing emergency care to patients. (1-1-15)T
- 08. Heart Attack.** STEMI, which is a common name for ST-elevation myocardial infarction, **is** a more precise definition for a type of heart attack ~~that is~~ caused by a prolonged period of blocked blood supply that affects a large area of the heart and has a substantial risk of death ~~and~~ **or** disability calling for a quick response. ~~(1-1-15)T~~**(7-1-15)T**
- 09. Idaho Time Sensitive Emergency (TSE) System Council.** The Idaho Time Sensitive Emergency System Council established in Section 56-1027, Idaho Code. (1-1-15)T
- 10. National Accrediting Body.** An organization whose standards criteria is recognized by the Idaho Time Sensitive Emergency System Council and verifies compliance with those standards. (1-1-15)T
- 11. Regional Time Sensitive Emergency (TSE) Committee.** An Idaho regional TSE committee established under Section 56-1030, Idaho Code. (1-1-15)T
- 12. STEMI.** STEMI is an ST segment elevation myocardial infarction that is a particular type of heart attack, or MI (myocardial infarction), that is caused by a prolonged period of blocked blood supply. It affects a large area of the heart muscle, and so causes changes on the ECG as well as in blood levels of key chemical markers. This is considered a major heart attack and is referred to in medical shorthand as a STEMI. (1-1-15)T

13. **Stroke.** An interruption of blood flow to the brain causing paralysis, slurred speech, or altered brain function usually caused by a blockage in a blood vessel that carries blood to the brain (ischemic stroke) or by a blood vessel bursting (hemorrhagic stroke). ~~(1-1-15)F~~(7-1-15)T

14. **Time Sensitive Emergency (TSE).** Time sensitive emergencies specifically for this chapter of rules are trauma, stroke, and heart attack. (1-1-15)T

15. **Trauma.** The result of an act or event that damages, harms, or hurts a human being resulting in intentional or unintentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy, or from the absence of such essentials as heat or oxygen. (1-1-15)T

~~16. **TSE Council.** The Idaho Time Sensitive Emergency System Council. (1-1-15)F~~

17. **TSE-Designated Center.** A facility that has voluntarily applied for TSE designation, met and is in compliance with the designation criteria and standards of these rules ~~when published~~, and that the TSE Council has designated as one (1) or more of the following: ~~(1-1-15)F~~(7-1-15)T

a. Level I Trauma Center; (1-1-15)T

b. Level II Trauma Center; (1-1-15)T

c. Level III Trauma Center; (1-1-15)T

d. Level IV Trauma Center; (1-1-15)T

e. Level V Trauma Center; ~~or~~ ~~(1-1-15)F~~(7-1-15)T

f. Pediatric Level I Trauma Center; (1-1-15)T

g. Pediatric Level II Trauma Center; (1-1-15)T

h. Comprehensive Level I Stroke Center (Comprehensive); ~~(1-1-15)F~~(7-1-15)T

i. Primary Level II Stroke Center (Primary); ~~(1-1-15)F~~(7-1-15)T

j. Acute Stroke Ready Level III Stroke Center (Acute Stroke Ready); ~~(1-1-15)F~~(7-1-15)T

k. Level I STEMI (Heart Attack) Receiving Center (Heart Attack Receiving); ~~or~~ ~~(1-1-15)F~~(7-1-15)T

l. Level II STEMI (Heart Attack) Referring Center (Heart Attack Referring); ~~(1-1-15)F~~(7-1-15)T

18. **TSE Registry.** The population-based data system ~~that provides ongoing and systematic collection, analysis, interpretation, and dissemination of information related to trauma, stroke, and heart attack for system improvement, prevention and research activities. Elements in the registry describe the nature and scope of the injury, illness, or health condition, identify the incidence and prevalence of traumatic injury, illness, or health condition, the severity of the injury, performance of out-of-hospital and hospital emergency medical systems, patient outcome, and the impact of trauma, stroke, and heart attack on the health care system. The TSE Registry is established defined~~ under Section 57-2003, Idaho Code. ~~(1-1-15)F~~(7-1-15)T

19. **TSE System.** ~~Under Section 57-2002, Idaho Code, the TSE System is a~~An organized statewide approach to treating injured trauma, stroke, and heart attack patients that establishes and promotes standards for patient transportation, equipment, and information analysis for effective and coordinated TSE care. ~~TSE systems represent a continuum of care that is fully integrated into the emergency medical services system and is a coordinated effort between out-of-hospital and hospital providers with the close cooperation of medical specialists in each phase~~

~~of care. The focus is on prevention, coordination of acute care, and aggressive rehabilitation. Systems are designed to be inclusive of all patients with a TSE requiring acute care facilities, striving to meet the needs of the patient, regardless of the severity of injury, geographic location or population density. A TSE system seeks to prevent injuries from happening and the reduction of death and disability when it does happen.~~ (1-1-15)F(7-1-15)T

011. -- 074. (RESERVED)

075. TSE COUNCIL.

Under Section 56-1027, Idaho Code, the TSE Council will consist of members appointed by the Governor of Idaho and the chair of each regional TSE committee. (1-1-15)T

076. TSE COUNCIL -- RESPONSIBILITIES AND DUTIES.

The TSE Council is responsible for the duties described under Section 56-1028, Idaho Code. (1-1-15)T

077. -- 079. (RESERVED)

080. TSE REGIONS.

Under Section 56-1028, Idaho Code, the TSE Council is required to establish TSE regions that provide more effective access to the Idaho ~~time sensitive emergency~~ TSE system through education, but not for the purpose of promoting competition, restricting, or directing patient referrals within the region. The TSE Council has established six (6) regions in Idaho described in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (1-1-15)F(7-1-15)T

081. TSE REGIONS -- REALIGNMENT OF REGION.

The TSE Council may realign a region ~~of a county~~ by initiation of the TSE Council, or at the request of a regional TSE committee, a county or local government entity ~~within the county region~~, a TSE-designated center, or a licensed EMS agency ~~within that county the region~~. (1-1-15)F(7-1-15)T

01. Requesting Entity. The requesting entity must forward correspondence to the TSE Council specifying the reason for the realignment request. The correspondence must include: (1-1-15)T

- a. Existing patient routing patterns used by both EMS agencies and health care centers; (1-1-15)T
- b. Distances and transport times involved in patient routing patterns; (1-1-15)T
- c. A list of all entities affected by the request; (1-1-15)T
- d. A list of all other licensed health care facilities and licensed EMS agencies in the county; and (1-1-15)T
- e. Documentation that all affected regional TSE committees are agreeable to the realignment. (1-1-15)T

02. Copies of Request for Realignment. The entity requesting the TSE Council for realignment must provide copies of the correspondence to all affected regional TSE committees, county and local governments, licensed health care facilities, and EMS agencies in the ~~requesting entity's~~ county. (1-1-15)F(7-1-15)T

03. TSE Decision for Realignment. The TSE Council will evaluate the request based on the impact to patient care and will notify all parties of the council's decision. (1-1-15)T

082. REGIONAL TSE COMMITTEES -- ORGANIZATION AND RESPONSIBILITIES.

The regional TSE committees' organization and responsibilities are described under Section 56-1030, Idaho Code. (1-1-15)T

083. -- 099. (RESERVED)

100. DESIGNATION OF TSE CENTERS -- CRITERIA.

Under Section 56-1029, Idaho Code, the TSE Council will designate a hospital as a trauma, stroke, or STEMI (heart attack) center when such hospital, upon proper application and verification, is found by the TSE Council to meet an applicable designation level for trauma, stroke, or STEMI (heart attack) designation criteria established in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (1-1-15)T

101. -- 104. (RESERVED)

105. TRAUMA DESIGNATION CENTERS.

To be ~~designated as~~ an Idaho TSE-designated Level I, II, III, IV, V, or a Pediatric Level I or Level II Trauma Center, a facility must meet or exceed ~~requirement~~ required standards published for state designation in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. ~~(1-1-15)F~~(7-1-15)T

106. -- 109. (RESERVED)

110. STROKE DESIGNATION CENTERS.

To be ~~designated as~~ an Idaho TSE-designated ~~Comprehensive Stroke Center, Primary Stroke Center, or an Acute Level I, II, or III Stroke Ready~~ Ready Center, a facility must meet or exceed ~~requirement~~ required standards ~~when~~ published for state designation in the Time Sensitive Emergency System Standards Manual incorporated by reference under Section 004 of these rules. ~~(1-1-15)F~~(7-1-15)T

111. -- 114. (RESERVED)

115. STEMI (HEART ATTACK) DESIGNATION CENTERS.

To be ~~designated as~~ an Idaho TSE-designated Level I or II STEMI (Heart Attack) ~~Receiving~~ Receiving Center, ~~or STEMI (Heart Attack) Referring Center~~, a facility must meet or exceed ~~requirement~~ required standards ~~when~~ published for state designation in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. ~~(1-1-15)F~~(7-1-15)T

116. -- 119. (RESERVED)

120. DESIGNATION OF CENTERS -- GENERAL REQUIREMENTS.

01. Application. A hospital facility applying for initial TSE designation ~~as a TSE designated center~~ must submit an application along with applicable fees for each designation it is requesting. Application process and requirements are provided in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. Fee requirements are provided in Section 200 of these rules. ~~(1-1-15)F~~(7-1-15)T

02. Initial Designation. Initial designation requires completion of appropriate application, submission of appropriate fees, and completion of an appropriate on-site survey based on the Time Sensitive Emergency System Standards Manual incorporated by reference under Section 004 of these rules. (1-1-15)T

121. -- 189. (RESERVED)

190. TSE DESIGNATION -- LENGTH OF DESIGNATION.

A TSE center will be designated for a period of three (3) years, unless the designation is rescinded by the TSE Council for non-compliance with the designation standards of these rules or adjusted to coincide with applicable external verification timetables. (1-1-15)T

191. RENEWAL OF TSE DESIGNATION.

A TSE center's ~~designation will not lapse when the~~ must submit its renewal application ~~for renewal has been timely submitted to the TSE Council, and the application is undergoing review by the TSE Council or awaiting an on-site review through no fault of the applicant~~ and applicable fees no later than six (6) months prior to the center's designation expiration date. Designation will not lapse due to a delay in scheduling the on-site survey, if the delay is through no fault of renewing center. ~~(1-1-15)F~~(7-1-15)T

192. -- 194. (RESERVED)

195. NOTIFICATION OF LOSS OF CERTIFICATION OR LICENSURE.

Any TSE-designated center that has a loss of certification or licensure ~~will~~ **must** immediately notify the TSE Council ~~(7-1-15)T~~ **(7-1-15)T** by contacting TSE program staff.

196. -- 199. (RESERVED)

200. DESIGNATION AND TSE ON-SITE SURVEY FEES.

01. Application With National Verification. An applicant applying for a TSE designation that is verified by a national accrediting body must submit the appropriate designation fees with its application for initial designation and renewal. The designation fees are for a three (3) year designation and are payable on an annual basis. TSE designation fees are not to exceed those listed in Subsections ~~200.03~~ **through 200.05** of this rule. ~~(7-1-15)T~~ **(7-1-15)T**

02. Application Without National Verification. An applicant who requires a TSE on-site survey prior to designation is required to pay the applicable on-site survey fee at the time of application. TSE designation and on-site survey fees are not to exceed those listed in Subsections ~~200.03~~ **through 200.05** of this rule. ~~(7-1-15)T~~ **(7-1-15)T**

03. Trauma Designation and TSE On-Site Survey Fees.

TRAUMA DESIGNATIONS 200.03	DESIGNATION FEE 3-years / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL I	\$45,000 / \$15,000	\$3,000 / Not applicable with ACS verification
LEVEL II	\$36,000 / \$12,000	\$3,000 / Not applicable with ACS verification
LEVEL III	\$24,000 / \$8,000	\$,3000 / Not applicable with ACS verification
LEVEL IV	\$12,000 / \$4,000	\$1,500 / Not applicable with ACS verification
LEVEL V	\$3,000 / \$1,000	\$1,500
PEDIATRIC LEVEL I and LEVEL II	\$36,000 / \$12,000	\$3000 / Not applicable with ACS verification

~~(7-1-15)T~~ **(7-1-15)T**

04. Stroke Designation and TSE On-Site Survey Fees.

<u>STROKE DESIGNATIONS 200.04</u>	<u>DESIGNATION FEE 3-year / Annual (Not to exceed)</u>	<u>TSE ON-SITE SURVEY FEE (Not to exceed)</u>
<u>LEVEL I</u>	<u>\$21,000 / \$7,000</u>	<u>\$3,000 / Not applicable with national verification</u>
<u>LEVEL II</u>	<u>\$12,000 / \$4,000</u>	<u>\$3,000 / Not applicable with national verification</u>
<u>LEVEL III</u>	<u>\$1,500 / \$500</u>	<u>\$3,000</u>

~~(7-1-15)T~~ **(7-1-15)T**

05. STEMI (Heart Attack) Designation and TSE On-Site Survey Fees.

<u>STEMI (HEART ATTACK) DESIGNATIONS</u> <u>200.05</u>	<u>DESIGNATION FEE</u> <u>3-year / Annual</u> <u>(Not to exceed)</u>	<u>TSE ON-SITE SURVEY FEE</u> <u>(Not to exceed)</u>
<u>LEVEL I</u>	<u>\$21,000 / \$7,000</u>	<u>\$3,000 / Not applicable</u> <u>with national verification</u>
<u>LEVEL II</u>	<u>\$1,500 / \$500</u>	<u>\$3,000</u>

(7-1-15)T

046. Designation Fee Payment. After completion of the TSE on-site survey, the TSE Council will ~~officially~~ notify the applicant facility of ~~successfully meeting the~~ designation ~~criteria~~ determination by letter. ~~After this notification takes place, facility designation goes into effect upon the Department's receipt of the first year's designation fee or the entire three (3) year fee. Subsequent annual designation fees are due to the Department within thirty (30) days of receipt of invoice in order to maintain designation.~~ The applicant facility must then pay either the annual designation fee or the entire three (3) year designation fee. After designation notification and upon the Department's receipt of the designation fee, designation is effective. The TSE Council will send a certificate of designation and confirmation of the designation period. Annual designation fees for those facilities paying yearly are due to the Department within thirty (30) days of the date of the invoice in order to maintain designation.

~~(1-1-15)F~~(7-1-15)T

201. -- 249. (RESERVED)

250. TSE ON-SITE ~~REVIEW~~ SURVEY.

The TSE Council will conduct an on-site ~~review~~ survey of each TSE-designated center at least once every three (3) years, unless the center has been verified by a national accrediting body to meet or exceed the standards set in these rules. The TSE Council will schedule the on-site ~~review~~ survey with the designated center in a timely manner.

~~(1-1-15)F~~(7-1-15)T

251. TSE ON-SITE ~~REVIEW~~ SURVEY -- GENERAL REQUIREMENTS.

The TSE on-site ~~review~~ survey will consist of and consider each facility's application and compliance with the standards published for state designation and incorporated under Section 004 of these rules for the specific type of designation being requested. The general requirements in Subsections 251.01 through 251.04 of this rule apply:

~~(1-1-15)F~~(7-1-15)T

01. ~~Review~~ Survey Team Member Requirements. ~~Review~~ Survey team members will meet the following inclusion criteria:

~~(1-1-15)F~~(7-1-15)T

- a. A physician ~~reviewer will~~ surveyor must: ~~(1-1-15)F~~(7-1-15)T
 - i. Be certified by the American Board of Medical Specialties or the American Board of Osteopathic Medicine; (1-1-15)T
 - ii. Be board-certified in the specialty area ~~he is being~~ representing on the review team; ~~(1-1-15)F~~(7-1-15)T
 - iii. Be currently active in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; (1-1-15)T
 - iv. Have no conflict of interest with the facility under review; ~~and~~ ~~(1-1-15)F~~(7-1-15)T
 - v. Be from another state when performing a ~~review~~ survey for Level I; ~~or~~ or Level II; ~~or Pediatric~~

Trauma Center designations: ~~and~~ (1-1-15)F(7-1-15)T

vi. ~~Be from outside the region of the center being verified.~~ (7-1-15)T

b. A nurse ~~reviewer~~ ~~surveyor~~ or program manager ~~will~~ ~~must~~: (1-1-15)F(7-1-15)T

i. Be currently active in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; and (1-1-15)T

ii. Have no conflict of interest with the facility under review; ~~and~~ (1-1-15)F(7-1-15)T

iii. Be from another state when performing a ~~review~~ ~~survey~~ for Level I; ~~or~~ Level II; ~~or Pediatric~~ Trauma Center designations: ~~and~~ (1-1-15)F(7-1-15)T

iv. ~~Be from outside the region of the center being verified.~~ (7-1-15)T

02. ~~Review~~ ~~Survey~~ Team Member Notification of Potential Conflict of Interest. Upon being assigned to an on-site ~~review~~ ~~survey~~ team, a potential team member must notify the TSE Council of any potential conflict of interest regarding any financial, professional, or personal bias that may ~~adversely~~ affect the ~~review~~ ~~survey~~ of the applicant's facility. (1-1-15)F(7-1-15)T

03. Notification to Applicant of ~~Review~~ ~~Survey~~ Team Members. The TSE Council will provide the applicant with the names of the on-site ~~review~~ ~~survey~~ team once they have been selected ~~and~~ at least thirty (30) calendar days prior to the scheduled ~~review~~ ~~survey~~. (1-1-15)F(7-1-15)T

04. Facility Notification ~~to TSE Council~~ of Potential Conflict of Interest. If the applicant believes that a potential ~~reviewer~~ ~~surveyor~~ has a financial, professional, or personal bias that may ~~adversely~~ affect the ~~review~~ ~~survey~~, the applicant must notify the TSE Council in writing no later than seven (7) calendar days after the applicant receives the TSE Council's notification of the proposed ~~review~~ ~~survey~~ team. (1-1-15)F(7-1-15)T

05. Notification of Decision for Conflict of Interest. The TSE Council will consider the conflict of interest notice and make a decision concerning replacement of the ~~review~~ ~~survey~~ team member in question. No person who has a substantial conflict of interest in the operation of any ~~center~~ ~~facility~~ under review will participate in the on-site ~~review~~ ~~survey~~ of ~~the~~ applicant. (1-1-15)F(7-1-15)T

252. TSE ON-SITE ~~REVIEW~~ ~~SURVEY~~ -- ~~REVIEW~~ ~~SURVEY~~ TEAM COMPOSITION. The TSE Council will select an on-site ~~review~~ ~~survey~~ team based on the applicant's designation application and specifications provided in these rules and the standards published in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (1-1-15)F(7-1-15)T

253. ON-SITE ~~REVIEW~~ ~~SURVEY~~ -- ADDITIONAL ~~REVIEWS~~ ~~SURVEYS~~. The TSE Council may conduct additional, announced or unannounced, full or partial, on-site reviews of TSE designated centers or applicants when there is reason to believe that the center is not in compliance with the designation criteria standards of these rules. (1-1-15)F(7-1-15)T

254. -- 259. (RESERVED)

260. DESIGNATION DECISION.

01. Summary Report. The ~~review~~ ~~survey~~ team will present a verbal summary of the ~~survey~~ results to the applicant, ~~and the TSE Council for review~~. ~~The survey~~ team ~~s~~ will submit in writing to the TSE Council its recommendation on the center's designation at the completion of the site survey. (1-1-15)F(7-1-15)T

02. Written Report. The TSE Council will consider all evidence and notify the applicant in writing of its decision within thirty (30) calendar days of receiving the ~~review~~ ~~survey~~ team's recommendation. (1-1-15)F(7-1-15)T

03. Final Determination. The TSE Council's final determination regarding each application will be based upon consideration of ~~all pertinent factors that include:~~ ~~(1-1-15)F~~(7-1-15)T

- a. The application; (1-1-15)T
- b. The evaluation and recommendations of the on-site ~~review~~ survey team; ~~(1-1-15)F~~(7-1-15)T
- c. The best interests of patients; and (1-1-15)T
- d. Any unique attributes or circumstances that make the facility capable of meeting special community needs. (1-1-15)T

04. Provisional Designation. The TSE Council may grant a provisional designation to a facility with deficiencies it deems correctable. A facility receiving a provisional designation must: (7-1-15)T

- a. Resolve the deficiencies within the time period specified by the TSE Council; (7-1-15)T
- b. Submit documentation that the deficiency has been resolved; and (7-1-15)T
- c. If necessary, submit to an additional focused on-site survey and pay the applicable survey fees. (7-1-15)T

045. Denial. If the TSE Council denies an applicant a designation, the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," will apply. (1-1-15)T

261. -- 269. (RESERVED)

270. WAIVERS.

01. Granting a Waiver. The TSE Council may grant a waiver from one (1) or more designation criteria for a center applying for TSE designation. (1-1-15)T

02. Waiver Application. A center requesting a waiver must submit a completed TSE ~~Waiver~~ ~~Application Form~~ ~~on a TSE Council's form~~. The TSE Council may require the applicant to provide additional information, and the ~~waiver~~ application will not be considered complete until all required information is provided. ~~(1-1-15)F~~(7-1-15)T

03. Post Notice. A center requesting a waiver must post a notice of the waiver application ~~with a meaningful description of the substance of the request~~ at all public entrances to the center and in at least one (1) area that is commonly used by the patients. The notice must: ~~(1-1-15)F~~(7-1-15)T

- a. Include a meaningful description of the reason for the waiver; (7-1-15)T
- ~~a~~b. Be posted on the date the waiver application is submitted; (1-1-15)T
- ~~b~~c. Remain posted for a minimum of thirty (30) calendar days; and (1-1-15)T
- ~~c~~d. Describe where and to whom comments may be submitted during the thirty (30) calendar days. (1-1-15)T

04. Notice Distribution. When the notice is posted, the center must also distribute copies of the notice to prehospital emergency medical service agencies active in the community served by the center. (1-1-15)T

05. Waiver Application Submission. The completed waiver application must be submitted to the TSE Council at least thirty (30) calendar days before a TSE Council meeting in order to be placed on the ~~Council~~ agenda. Applications ~~completed~~ submitted less than thirty (30) calendar days in advance of a TSE Council meeting will be placed on ~~a subsequent Council~~ the next agenda. ~~(1-1-15)F~~(7-1-15)T

06. **Waiver Application Distribution.** The TSE Council ~~will distribute a copy of~~ will make available the public notice of the TSE Council meeting regarding the waiver application to all ~~other~~ TSE-designated centers. ~~(1-1-15)F(7-1-15)T~~

07. **Waiver Application Review.** The regional TSE committee ~~will~~ must review the request and make recommendations to the TSE Council. The TSE Council ~~will~~ must make a decision and notify the facility administrator in writing within thirty (30) calendar days of the TSE Council meeting during which the waiver decision is made. ~~(1-1-15)F(7-1-15)T~~

08. **Waiver Conditions.** When a waiver is granted, the TSE eCouncil ~~will~~ must: ~~(1-1-15)F(7-1-15)T~~

a. Specify the terms and conditions of the waiver; (1-1-15)T

b. Specify the duration of the waiver: duration will not exceed the designation period for that center or three (3) years, whichever is shorter ~~which under no circumstances is a waiver granted for a period longer than the designation cycle for that center~~; and ~~(1-1-15)F(7-1-15)T~~

c. Require the submission of progress reports from ~~any~~ the center that was granted a waiver. ~~(1-1-15)F(7-1-15)T~~

09. **Waiver Renewal.** A center that plans to maintain a waiver beyond its expiration must submit a new waiver application to the TSE eCouncil no less than ~~ninety (90) days~~ three (3) months prior to the expiration of the waiver. ~~(1-1-15)F(7-1-15)T~~

10. **Waiver Revocation.** The TSE Council may revoke or suspend a waiver when it determines: (1-1-15)T

a. That continuation of the waiver jeopardizes the health, safety, or welfare of the patients; (1-1-15)T

b. The applicant has provided false or misleading information in the waiver application; (1-1-15)T

c. The applicant has failed to comply with conditions of the waiver; or (1-1-15)T

d. That a change in federal or state law prohibits continuation of the waiver. (1-1-15)T

~~121.~~ **Notification and Appeals.** When the TSE Council denies, revokes, or suspends a waiver, the TSE Council must provide the center with a written notification of the action and the basis for the action. The notice will inform the facility of the right to appeal and the procedure to appeal the waiver action under the provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," will apply Notification will be made in writing within thirty (30) calendar days of the TSE Council meeting during which the appeal decision is made. ~~(1-1-15)F(7-1-15)T~~

271. -- 279. (RESERVED)

280. DENIAL AND MODIFICATION.

01. **Denial.** The TSE Council may deny an initial or renewal application for a center's designation when a center: (1-1-15)T

a. Does not meet the criteria for designation required in these rules; (1-1-15)T

b. Application or accompanying documents contain false statements of material facts; (1-1-15)T

c. Refuses to allow any part of an on-site ~~review~~ survey; ~~(1-1-15)F(7-1-15)T~~

d. Fails to comply with or to successfully complete a plan of correction, or (1-1-15)T

- e. Is substantially out of compliance with any ~~of TSE Council's~~ rules. ~~(1-1-15)F~~(7-1-15)T

02. Modification. When a center ~~does not~~ fails to meet the ~~level of designation~~ criteria ~~at the level of designation~~ for which it applied or ~~for which it subsequently~~ opts to surrender its ~~verification~~ designation, the TSE Council may recommend a designation at a lesser level described in Section 290 of these rules, or a complete revocation of state designation. This action, unless agreed to by the applicant, will represent a denial of the application. ~~(1-1-15)F~~(7-1-15)T

03. Notification and Appeal. When the TSE Council denies an application for designation, the TSE Council ~~will~~ must provide the center with a written notification of the denial and the basis for the denial. The notice will inform the facility of the right to appeal and the procedure to appeal the denial under the provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ~~(1-1-15)F~~(7-1-15)T

281. -- 284. (RESERVED)

285. REVOCATION AND SUSPENSION.

01. Revocation. The TSE Council may revoke the designation of a center or a waiver when any owner, officer, director, manager, or other employee: ~~(1-1-15)F~~(7-1-15)T

- a. Fails or refuses to comply with the provisions of these rules; (1-1-15)T
- b. Makes a false statement of material fact about the center's capabilities or other pertinent circumstances in any record or matter under investigation for any purposes connected with these rules; (1-1-15)T
- c. Prevents, interferes with, or attempts to impede in any way, the work of a representative of the TSE Council in implementing or enforcing these rules; (1-1-15)T
- d. Falsely advertises, or in any way misrepresents the facility's ability to care for patients based on its designation status; (1-1-15)T
- e. Is substantially out of compliance with these rules and has not rectified such noncompliance; (1-1-15)T
- f. Fails to provide reports required by the TSE registry or the ~~state~~ Department in a timely and complete fashion; or ~~(1-1-15)F~~(7-1-15)T
- g. Fails to comply with or complete a plan of correction in the time or manner specified. (1-1-15)T

02. Suspension. The TSE Council may suspend a center's designation or waiver when it finds, after investigation, that the center has engaged in a deliberate and willful violation of these rules, or that the public's health, safety, or welfare ~~requires immediate action~~ is endangered. ~~(1-1-15)F~~(7-1-15)T

03. Notification and Appeal. When the TSE Council revokes or suspends a center's designation or waiver, it ~~will~~ must provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the procedure to appeal the action under the provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ~~(1-1-15)F~~(7-1-15)T

286. -- 289. (RESERVED)

290. DESIGNATION AT A LESSER LEVEL.

01. Inability to Meet Criteria. The TSE Council may ~~determine~~ opt to redesignate a center at a lesser level due to the center's inability to meet current designation criteria, without regard to any waiver previously granted. ~~(1-1-15)F~~(7-1-15)T

02. Notification and Appeal. When the TSE Council decides to redesignate a center, it ~~will~~ **must** provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the procedure to appeal the action under the provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ~~(7-1-15)T~~**(7-1-15)T**

291. -- 999. (RESERVED)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1503

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code, and 42 U.S.C. 1396a(a)(25)(E).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule change adds clarification of exceptions regarding third party liability for early and periodic screening and diagnosis services that are billed to third-party insurers. These rules will align with federal statutes.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rulemaking is meant to be cost neutral. There will be no fiscal impact to the state general funds or any other funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not feasible because these rules are to align with federal statutes.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cale Coyle at (208) 364-1817.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 22, 2015.

DATED this 17th Day of June, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Tel: (208) 334-5500
Fax: (208) 334-6558
Email: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0309-1503
(Only those Sections being amended are shown.)

215. THIRD PARTY LIABILITY.

01. **Determining Liability of Third Parties.** The Department will take reasonable measures to determine any legal liability of third parties for medical care and services rendered to a participant. (3-30-07)

02. **Third Party Liability as a Current Resource.** The Department is to treat any third party liability as a current resource when such liability is found to exist and payment by the third party has been made or will be made within a reasonable time. (3-30-07)

03. **Withholding Payment.** The Department must not withhold payment on behalf of a participant because of the liability of a third party when such liability, or the amount thereof, cannot be currently established or is not currently available to pay the participant's medical expense. (3-30-07)

04. **Seeking Third Party Reimbursement.** The Department will seek reimbursement from a third party when the party's liability is established after reimbursement to the provider is made, and in any other case in which the liability of a third party existed, but was not treated as a current resource, with the exceptions *of EPSDT and EPSDT-related services provided in Subsection 215.05 of this rule.* (3-30-07)()

a. The Department will seek reimbursement from a participant when a participant's liability is established after reimbursement to the provider is made; and (3-30-07)

b. In any other situation in which the participant has received direct payment from any third party resource and has not forwarded the money to the Department for services or items received. (3-30-07)

05. **Billing Third Parties First.** Medicaid providers must bill all other sources of direct third party payment, with the following exceptions: *of absent parent (court ordered) without secondary resources, prenatal, EPSDT and EPSDT related services before submitting the claim to the Department. If the resource is an absent parent (court ordered) and there are no other viable resources available or if the claims are for prenatal, EPSDT, or EPSDT-related services, the claims will be paid and the resources billed by the Department.* (3-30-07)()

a. When the resource is a court-ordered absent parent and there are no other viable resources available, the claims will be paid and the resources billed by the Department; ()

b. Prenatal or preventive pediatric care including early and periodic screening and diagnosis. Screening and diagnosis program services include; ()

i. Regularly scheduled examinations and evaluations of the general physical, dental, and mental health, growth, development, and nutritional status of children under age twenty-one (21), provided according to guidance for child wellness exams published in the Medicaid General Provider and Participant Handbook; ()

ii. Immunizations recommended by the American Academy of Pediatrics immunization schedule; ()

iii. Diagnosis services to identify the nature of an illness or other problem by examination of the symptoms. ()

c. When prior authorization has been approved according to Section 883 of these rules, treatment services to control, correct, or ameliorate health problems found through diagnosis and screenings; ()

d. If the claim is for prenatal or preventative pediatric care as described in Subsection 215.05.b of this rule, the Department will make payment for the service provided in its fee schedule and will seek reimbursement from the third party according to 42 U.S.C. 1396a(a)(25)(E). ()

06. Accident Determination. When the participant's Medicaid card indicates private insurance and/or when the diagnosis indicates an accident for which private insurance is often carried, the claim will be suspended or denied until it can be determined that there is no other source of payment. (3-30-07)

07. Third Party Payments. The Department will pay the provider the lowest amount of the following: (3-29-12)

a. The provider's actual charge for the service; or (3-29-12)

b. The maximum allowable charge for the service as established by the Department in its pricing file. If the service or item does not have a specific price on file, the provider must submit supporting documentation to the Department. Reimbursement will be based on the documentation; or (3-29-12)

c. The third party-allowed amount minus the third party payment, or the patient liability as indicated by the third party. (3-29-12)

08. Subrogation of Third Party Liability. In all cases where the Department will be required to pay medical expenses for a participant and that participant is entitled to recover any or all such medical expenses from any third party, the Department will be subrogated to the rights of the participant to the extent of the amount of medical assistance benefits paid by the Department as the result of the occurrence giving rise to the claim against the third party. (3-30-07)

a. If litigation or a settlement in such a claim is pursued by the medical assistance participant, the participant must notify the Department. (3-30-07)

b. If the participant recovers funds, either by settlement or judgment, from such a third party, the participant must repay the amount of benefits paid by the Department on his behalf. (3-30-07)

09. Subrogation of Legal Fees. (3-30-07)

a. If a medical assistance participant incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the Department is subrogated, the amount which the Department is entitled to recover, or any lesser amount which the Department may agree to accept in compromise of its claim, will be reduced by an amount which bears the same relation to the total amount of attorney fees and court costs actually paid by the participant as the amount actually recovered by the Department, exclusive of the reduction for attorney fees and court costs, bears to the total amount paid by the third party to the participant. (3-30-07)

b. If a settlement or judgment is received by the participant which does not specify portion of the settlement or judgment which is for payment of medical expenses, it will be presumed that the settlement or judgment applies first to the medical expenses incurred by the participant in an amount equal to the expenditure for benefits paid by the Department as a result of the payment or payments to the participant. (3-30-07)