



**Terri Kondeff**  
**Director**

# Legislative Services Office Idaho State Legislature

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## MEMORANDUM

**TO:** Senators MARTIN, Riggs, Stennett and,  
Representatives WOOD, Vander Woude, Chew

**FROM:** Elizabeth Bowen - Principal Legislative Drafting Attorney

**DATE:** May 09, 2022

**SUBJECT:** Temporary Rule

IDAPA 16.03.09 - Medicaid Basic Plan Benefits - Adoption of Temporary Rule - Docket No.  
16-0309-2201

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Elizabeth Bowen at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

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Paul Headlee, Deputy Director   Kristin Ford, Manager   Keith Bybee, Manager   April Renfro, Manager   Glenn Harris, Manager  
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**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

**16.03.09 – MEDICAID BASIC PLAN BENEFITS**

**DOCKET NO. 16-0309-2201**

**NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is March 17, 2022.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-264, 56-255, and 56-1610, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

The Department is adopting a temporary rule that addresses stakeholder concerns brought up during the 2022 Legislature. This rulemaking inserts Subsection 16.03.09.772.01.c. with updated and corrected language regarding the requirements for fitting prosthetic and orthotic devices.

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

This new language replaces Subsection 16.03.09.772.01.c. that was rejected by the 2022 Legislature. This temporary change qualifies to ensure the protection of the public health, safety, or welfare.

**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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Charles Beal, 208-364-1887.

DATED this 24th day of, March 2022.

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THE FOLLOWING IS THE TEMPORARY RULE TEXT OF DOCKET NO. 16-0309-2201  
(Only Those Sections With Amendments Are Shown.)

772. PROSTHETIC AND ORTHOTIC SERVICES: COVERAGE AND LIMITATIONS.

**01. Program Requirements.** The following program requirements will be applicable for all prosthetic and orthotic devices or services purchased by the Department: (3-17-22)

**a.** A temporary lower limb prosthesis will be purchased when documented by the attending physician or non-physician practitioner that it is in the best interest of the participant's rehabilitation to have a temporary lower limb prosthesis prior to a permanent limb prosthesis. A new permanent limb prosthesis will only be requested after the residual limb size is considered stable; (3-17-22)

**b.** A request for a replacement prosthesis or orthotic device must be justified to be the least costly alternative as opposed to repairing or modifying the current prosthesis or orthotic device; (3-17-22)

**c.** All prosthetic and orthotic devices that require fitting must be provided by a Podiatrist, or an individual who is certified or registered by the American Board for Certification in Orthotics, Prosthetics & Pedorthics (ABC) or the Board of Certification/Accreditation (BOC). (3-17-22)T

**d.** All equipment that is purchased must be new at the time of purchase. Modification to existing prosthetic or orthotic equipment, or both, will be covered by the Department; (3-17-22)

**e.** Prosthetic limbs purchased by the Department must be guaranteed to fit properly for three (3) months from the date of service; therefore, any modifications, adjustments, or replacements within the three (3) months are the responsibility of the provider that supplied the item at no additional cost to the Department or the participant; and (3-17-22)

**f.** Not more than ninety (90) days may elapse between the time of the order and the preauthorization request is presented to the Department for consideration. (3-17-22)

**02. Program Limitations.** The following limitations apply to all prosthetic and orthotic services and equipment: (3-17-22)

**a.** No replacement will be allowed for prosthetic or orthotic devices within sixty (60) months of the date of purchase except in cases where there is clear documentation that there has been major physical change to the residual limb, and ordered by the attending physician or non-physician practitioner; (3-17-22)

**b.** Refitting, repairs, or additional parts must be limited to once per calendar year for all prosthetics or orthotics, or both, unless it has been documented that a major medical change has occurred to the limb, and ordered by the attending physician; (3-17-22)

**c.** All refitting, repairs or alterations require preauthorization based on medical justification by the participant's attending physician; (3-17-22)

**d.** Prosthetic and orthotic devices provided for cosmetic or convenience purposes are not covered by the Department. (3-17-22)

**e.** Electronically powered or enhanced prosthetic devices are not covered; (3-17-22)

**f.** The Department will only authorize corrective shoes or modification to an existing shoe owned by the participant when they are attached to an orthosis or prosthesis or when specially constructed to provide for a totally or partially missing foot; (3-17-22)

**g.** Shoes and accessories such as mismatch shoes, comfort shoes following surgery, shoes to support an overweight individual, or shoes used as bandage following foot surgery, arch supports, foot pads, metatarsal head appliances or foot supports are not covered; and (3-17-22)

**h.** Corsets are not a benefit nor are canvas braces with plastic or metal bones. However, special braces enabling a participant to ambulate will be covered when the attending physician documents that the only other method of treatment for this condition would be application of a cast. (3-17-22)