Dear Senators HEIDER, Nuxoll, Bock, and
Representatives WOOD, Perry, Rusche:

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

IDAPA 16.02.02 - Rules Pertaining To The Idaho Emergency Medical Services (EMS) Physician Commission - Proposed Rule (Docket No. 16-0202-1401);

IDAPA 16.02.19 - Rules Pertaining To Food Safety and Sanitation Standards for Food Establishments (The Idaho Food Code) - Temporary and Proposed Rule (Docket No. 16-0219-1401);

IDAPA 16.03.01 - Rules Pertaining To Eligibility for Health Care Assistance for Families and Children - Proposed Rule (Docket No. 16-0301-1401);

IDAPA 16.03.03 - Rules Pertaining To Child Support Services - Proposed Rule (Docket No. 16-0303-1401);

IDAPA 16.03.04 - Rules Pertaining To The Food Stamp Program in Idaho - Proposed Rule (Docket No. 16-0304-1401);

IDAPA 16.03.05 - Rules Pertaining To Eligibility for Aid to the Aged, Blind and Disabled (AABD) - Proposed Rule (Docket No. 16-0305-1401);

IDAPA 16.05.07 - Rules Pertaining To The Investigation of Fraud, Abuse, and Misconduct - Proposed Rule (Docket No. 16-0507-1401);

IDAPA 16.07.33 - Rules Pertaining To Adult Mental Health Services - Proposed Rule (Docket No. 16-0733-1401).

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 10/27/2014. 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 11/25/2014.

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.

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

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: October 07, 2014

SUBJECT: Department of Health and Welfare

IDAPA 16.02.02 - Rules Pertaining To The Idaho Emergency Medical Services (EMS) Physician Commission - Proposed Rule (Docket No. 16-0202-1401)

IDAPA 16.02.19 - Rules Pertaining To Food Safety and Sanitation Standards for Food Establishments (The Idaho Food Code) - Temporary and Proposed Rule (Docket No. 16-0219-1401)

IDAPA 16.03.01 - Rules Pertaining To Eligibility for Health Care Assistance for Families and Children - Proposed Rule (Docket No. 16-0301-1401)

IDAPA 16.03.03 - Rules Pertaining To Child Support Services - Proposed Rule (Docket No. 16-0303-1401)

IDAPA 16.03.04 - Rules Pertaining To The Food Stamp Program in Idaho - Proposed Rule (Docket No. 16-0304-1401)

IDAPA 16.03.05 - Rules Pertaining To Eligibility for Aid to the Aged, Blind and Disabled (AABD) - Proposed Rule (Docket No. 16-0305-1401)

IDAPA 16.05.07 - Rules Pertaining To The Investigation of Fraud, Abuse, and Misconduct - Proposed Rule (Docket No. 16-0507-1401)

IDAPA 16.07.33 - Rules Pertaining To Adult Mental Health Services - Proposed Rule (Docket No. 16-0733-1401)

(1) IDAPA 16.02.02 - Rules Pertaining To The Idaho Emergency Medical Services (EMS) Physician Commission - Proposed Rule (Docket No. 16-0202-1401)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.02.02. The proposed rule references an updated version of the EMS Physician Commission's Standards Manual. Additionally, it revises language in order for the rule to be consistent with 2014 statutory changes. Specifically, the definition of "emergency services" has been changed to accord with Section 56-1012(12), Idaho Code, and definitions of "license" and "licensed EMS personnel" have been added.

There is no negative fiscal impact on the state general fund. Negotiated rulemaking was not conducted; the Department states that it was not feasible due to the nature of the rule changes. The rule is consistent with the Department's authority under Section 56-1023, Idaho Code.

(2) IDAPA 16.02.19 - Rules Pertaining To Food Safety and Sanitation Standards for Food Establishments (The Idaho Food Code) - Temporary and Proposed Rule (Docket No. 16-0219-1401)

The Department of Health and Welfare submits notice of temporary and proposed rulemaking at IDAPA 16.02.19. The temporary and proposed rule allows legally harvested game meat to be donated to food banks as long as certain conditions are met.

The effective date of the rule is September 1, 2014. There is no negative fiscal impact on the state general fund. Negotiated rulemaking was conducted. Additionally, the Governor has found that temporary adoption of the rule is justified in order to allow hunters to make game meat donations during this year's hunting season. According to the Department, the rule was approved by the Board of Health and Welfare and is therefore consistent with the rulemaking authority granted by Sections 37-121 and 39-1603, Idaho Code.

(3) IDAPA 16.03.01 - Rules Pertaining To Eligibility for Health Care Assistance for Families and Children - Proposed Rule (Docket No. 16-0301-1401)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.01. The proposed rule relates to eligibility for health care assistance. The rule alters existing language to clarify definitions and align the rule with federal regulations.

There is no negative impact on the state general fund. Negotiated rulemaking was not conducted; the Department states that it was not feasible due to the nature of the rule changes. The rule is consistent with the Department's authority under Section 56-202, Idaho Code.

(4) IDAPA 16.03.03 - Rules Pertaining To Child Support Services - Proposed Rule (Docket No. 16-0303-1401)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.03. The proposed rule updates statutory references, inserts definitions, and clarifies the factors to be considered in license suspension proceedings. Additionally, the rule deletes an outdated form found in an appendix and refers interested parties to the location of the current form on the Department's website.

There is no negative fiscal impact on the state general fund. Negotiated rulemaking was not conducted due to the technical nature of the changes. The rule is consistent with the Department's authority under Sections 56-203A and 56-1004, Idaho Code.

(5) IDAPA 16.03.04 - Rules Pertaining To The Food Stamp Program in Idaho - Proposed Rule (Docket No. 16-0304-1401)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.04. The proposed rule amends the definition of "trafficking" in order to be consistent with the revised federal definition.

There is no negative fiscal impact on the state general fund. Negotiated rulemaking was not conducted due to the technical nature of the change. The rule is consistent with the Department's authority under Section 56-202, Idaho Code.

(6) IDAPA 16.03.05 - Rules Pertaining To Eligibility for Aid to the Aged, Blind and Disabled (AABD) - Proposed Rule (Docket No. 16-0305-1401)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.05. The proposed rule, based on guidance from the Centers for Medicaid and Medicare, clarifies a participant's liability for preexisting medical expenses. Additionally, the rule clarifies a participant's liability when the patient enters or leaves a nursing home during the middle of the month.

The anticipated annual fiscal impact of the changes is $524,098.92. Negotiated rulemaking was not conducted, as the changes were made to bring the rule into alignment with federal regulations. The rule is consistent with the Department's authority under Section 56-202, Idaho Code.

(7) IDAPA 16.05.07 - Rules Pertaining To The Investigation of Fraud, Abuse, and Misconduct - Proposed Rule (Docket No. 16-0507-1401)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.05.07. The proposed rule codifies the Department's reinstatement procedures for individuals or entities who have been excluded from the Medicaid program.

There is no negative fiscal impact on the state general fund. Negotiated rulemaking was conducted. The rule is consistent with the Department's authority under Sections 56-202, Idaho Code.

(8) IDAPA 16.07.33 - Rules Pertaining To Adult Mental Health Services - Proposed Rule (Docket No. 16-0733-1401)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.07.33. The proposed rule updates existing language in order to be consistent with federal and state law. Specifically, the proposed rule amends and adds definitions, removes obsolete language, and clarifies the mental health services currently available through the Department. A public hearing will be held on Friday, October 17, 2014 at the Central Office of the Department of Health and Welfare in Boise. A videoconference of the meeting will be available at various locations throughout the state.

There is no negative fiscal impact on the state general fund. According to the Department, negotiated rulemaking was not conducted because the proposed rule is based on existing practices, laws, and regulations. The rule is consistent with the Department's authority under Section 39-3140, Idaho Code.

cc: Department of Health and Welfare - Adult Mental Health Services
Beverly Barr and Frank Powell

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.02 - RULES OF THE IDAHO EMERGENCY MEDICAL SERVICES (EMS) PHYSICIAN COMMISSION

DOCKET NO. 16-0202-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1013A and 56-1023, 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 October 15, 2014.

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:

To best protect the public's health and safety, the EMS Physician Commission is revising its Standards Manual that is incorporated by reference in this chapter of rules. The revision to these rules will ensure that the most recent edition of the manual has the force and effect of law.

Rule changes are also needed to bring this chapter of rules into alignment with amendments to state law regarding EMS under Senate Bill 1328 (2014), especially the definition of "Emergency Medical Services" as well as other non-substantive technical/clerical corrections.

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:

There is no anticipated fiscal impact to the state general fund or any other funds as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted and deemed not feasible because the content of the proposed updates to the EMS Physician Commission Standards Manual and to this chapter of rules already represents extensive input from stakeholders gathered on an ongoing basis during 2014.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2015-1, is being incorporated by reference into these rules to give it the force and effect of law. The document is not being published in this chapter of rules due to its length and format, but it is available upon request from Idaho EMS.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Wayne Denny at (208) 334-4000.

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 October 22, 2014.

DATED this 21st day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0202-1401
(Only those Sections being amended are shown.)

004. INCORPORATION BY REFERENCE.
The Idaho Emergency Medical Services (EMS) Physician Commission has adopted the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 201~~4~~5-1, and hereby incorporates this Standards Manual by reference. Copies of the manual may be obtained on the Internet at www.emspc.dhw.idaho.gov or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID, 83712-8249, whose mailing address is P.O. 83720, Boise, Idaho 83720-0036. ~~(7-1-14)~~(   )

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.
In addition to the applicable definitions in Section 56-1012, Idaho Code, and IDAPA 16.0~~2~~1.0~~3~~2, "Rules Governing Emergency Medical Services (EMS) -- Rule Definitions," the following terms are used in this chapter as defined below: ~~(4-2-08)~~(   )

~~***01. License***. *A license issued by the EMS Bureau to an individual for a specified period of time indicating that minimum standards corresponding to one (1) of several levels of EMS proficiency have been met.* (3-29-10)~~

~~***02. Licensed EMS Personnel***. *Individuals who possess a valid license issued by the EMS Bureau.* (3-29-10)~~

0~~3~~1. Credentialed EMS Personnel. Individuals who are authorized to provide medical care by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (4-2-08)

0~~4~~2. Credentialing. The local process by which licensed EMS personnel are authorized to provide medical care in the out-of-hospital, hospital, and medical clinic setting, including the determination of a local scope of practice. (3-29-10)

0~~5~~3. Designated Clinician. A licensed Physician Assistant (PA) or Nurse Practitioner designated by the EMS medical director, hospital supervising physician, or medical clinic supervising physician who is responsible for direct (on-line) medical supervision of licensed EMS personnel in the temporary absence of the EMS medical director. (3-29-10)

0~~6~~4. Direct (On-Line) Supervision. Contemporaneous instructions and directives about a specific patient encounter provided by a physician or designated clinician to licensed EMS personnel who are providing medical care. (3-29-10)

0~~7~~5. Emergency Medical Services (EMS). ~~*The services utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological*~~

~~*illness or injury.*~~ Under Section 56-1012(12), Idaho Code, emergency medical services or EMS is aid rendered by an individual or group of individuals who do the following: ~~*(4-2-08)*~~(   )

a. Respond to a perceived need for medical care in order to prevent loss of life, aggravation of physiological or psychological illness, or injury; (   )

b. Are prepared to provide interventions that are within the scope of practice as defined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; (   )

c. Use an alerting mechanism to initiate a response to requests for medical care; and (   )

d. Offer, advertise, or attempt to respond as described in Section 56-1012(12), (a) through (c), Idaho Code. (   )

e. Aid rendered by a ski patroller, as described in Section 54-1804(1)(h), Idaho Code, is not EMS. (   )

0~~*8*~~6. **Emergency Medical Services (EMS) Bureau**. The Bureau of Emergency Medical Services (EMS) and Preparedness of the Idaho Department of Health and Welfare. (4-2-08)

0~~*9*~~7. **Emergency Medical Services (EMS) Physician Commission**. The Idaho Emergency Medical Services Physician Commission as created under Section 56-1013A, Idaho Code, hereafter referred to as "the Commission." (4-2-08)

~~*1*~~08. **EMS Agency**. An organization licensed by the EMS Bureau to provide emergency medical services in Idaho. (4-2-08)

~~*11*~~09. **EMS Medical Director**. A physician who supervises the medical activities of licensed personnel affiliated with an EMS agency. (3-29-10)

1~~*2*~~0. **Hospital**. A facility in Idaho licensed under Sections 39-1301 through 39-1314, Idaho Code, and defined in Section 39-1301(a)(1), Idaho Code. (4-2-08)

1~~*3*~~1. **Hospital Supervising Physician**. A physician who supervises the medical activities of licensed EMS personnel while employed or utilized for delivery of services in a hospital. (3-29-10)

1~~*4*~~2. **Indirect (Off-Line) Supervision**. The medical supervision, provided by a physician, to licensed EMS personnel who are providing medical care including EMS system design, education, quality management, patient care guidelines, medical policies, and compliance. (3-29-10)

13. **License**. A license issued by the EMS Bureau to an individual for a specified period of time indicating that minimum standards corresponding to one (1) of several levels of EMS proficiency have been met. (   )

14. **Licensed EMS Personnel**. Individuals who possess a valid license issued by the EMS Bureau. (   )

15. **Medical Clinic**. A place devoted primarily to the maintenance and operation of facilities for outpatient medical, surgical, and emergency care of acute and chronic conditions or injury. (4-2-08)

16. **Medical Clinic Supervising Physician**. A physician who supervises the medical activities of licensed EMS personnel while employed or utilized for delivery of services in a medical clinic. (3-29-10)

17. **Medical Supervision**. The advice and direction provided by a physician, or under the direction of a physician, to licensed EMS personnel who are providing medical care, including direct and indirect supervision. (3-29-10)

18. **Medical Supervision Plan**. The written document describing the provisions for medical supervision of licensed EMS personnel. (3-29-10)

19. **Nurse Practitioner**. An Advanced Practice Professional Nurse, licensed in the category of Nurse Practitioner, as defined in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (4-2-08)

20. **Out-of-Hospital**. Any setting outside of a hospital, including inter-facility transfers, in which the provision of emergency medical services may take place. (4-2-08)

21. **Physician**. In accordance with Section 54-1803, Idaho Code, a person who holds a current active license issued by the Board of Medicine to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho and is in good standing with no restriction upon, or actions taken against, his license. (3-29-10)

22. **Physician Assistant**. A person who meets all the applicable requirements to practice as a licensed physician assistant under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants." (4-2-08)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.19 - FOOD SAFETY AND SANITATION STANDARDS FOR FOOD ESTABLISHMENTS (THE IDAHO FOOD CODE)

DOCKET NO. 16-0219-1401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2014.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 37-121 and 39-1603, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, October 14, 2014, 1:00 p.m.
Hilton Garden Inn 7699 W. Spectrum Street Garden East Room Boise, Idaho

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 adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department is proposing changes to allow individuals who have harvested wild game meat and would like to donate it to food banks and other organizations that help feed Idaho's citizens, and that are willing to accept wild game meat, to do so. The provisions in this proposed rule provides a way for these organizations to be able to accept donated wild game meat.

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

To provide for the public health, safety, or welfare by allowing donations of wild game meat to feed Idaho's citizens that are hungry and want to accept this meat for their families. The temporary rule is needed in order to allow hunters to donate during this year's hunting season. The provisions also provide a way for these organizations to be able to accept donated wild game meat.

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 will have no fiscal impact to state general funds or any other funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was conducted and the Negotiated Rulemaking Notices for Docket 16-0219-1401 published in both the March 5, 2014, Idaho Administrative Bulletin, **Vol. 14-3, page 21** and the April 2, 2014, Idaho Administrative Bulletin, **Vol. 14-4, page 13**.

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 temporary and proposed rule, contact Patrick Guzzle, at (208) 334-5936.

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 October 22, 2014.

DATED this 21 st day of August, 2014.

Tamara Prisock
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Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT OF DOCKET NO. 16-0219-1401
(Only those Sections being amended are shown.)

325. GAME ANIMALS.
Modification to Section 3-201.l7(A)(4), is made by deleting Section 3-201.17(A)(4) and replacing it with Subsections 325.01 through 325.0~~3~~4 of these rules. ~~(4-6-05)~~(9-1-14)T

01. Field Dressed Game Animals. Uninspected wild game animals and wild poultry may be custom processed or prepared and served upon request by an individual having ownership of the animal~~,~~. ~~*and*~~ Except as allowed in Subsection 325.04 of this rule, uninspected wild game animals and wild poultry must be processed for or served to that owner and for the family or guests of that individual animal owner only. ~~(4-6-05)~~(9-1-14)T

02. Processing Game Animals. Game animals and birds are to be completely separated from other food during storage, processing, preparation and service with the use of separate equipment or areas or by scheduling and cleaning, providing there is compliance with the following: (4-6-05)

a. Slaughtering and cleaning of game animals or birds can not be done in the food establishment, except for meat processing establishments with kill floors; and (4-6-05)

b. Game animals and other animal carcasses are free of any visible dirt, filth, fecal matter or hair before such carcasses enter the food establishment, except for meat processing establishments with kill floors; and (4-6-05)

c. An identifying tag with the owner's name must be on each carcass or divided parts and packaged or wrapped parts; and (4-6-05)

d. Each carcass or divided parts and packaged or wrapped parts are marked or tagged with a "Not for sale" label. Except as allowed in Subsection 325.04 of this rule, ~~T~~these may not be sold, given away, or served to any members of the public. ~~(4-6-05)~~(9-1-14)T

03. Un-Inspected Game Animals. Any un-inspected game animals prepared and served in a food establishment may only be prepared and served at the request of the owner of the animals for the owner and invited

family or friends at a private dinner. Except as allowed in Subsection 325.04 of this rule, ~~T~~these animals may not be served, sold, or given away to any members of the public. ~~*(4-6-05)*~~(9-1-14)T

04. Donated Game Meat. Legally harvested game meat may be donated to a food bank or food pantry when the following conditions are met: (9-1-14)T

a. The end recipient of the donated game meat signs an acknowledgement statement indicating that he is aware that the meat has been donated and that the meat itself is uninspected, wild harvested game meat. (9-1-14)T

b. The game meat must have been processed by: (9-1-14)T

i. A facility that is subject to inspection by the regulatory authority with jurisdiction over meat products; (9-1-14)T

ii. The facility packages the game meat into portions that require no further processing or cutting by the food bank or food pantry; and (9-1-14)T

c. The meat is labeled by the processor with the following: (9-1-14)T

i. Species identification; (9-1-14)T

ii. The name and address of the meat processing facility; and (9-1-14)T

iii. The words "Processed for Donation or Private Use" and "Cook to 165° F." (9-1-14)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.01 - ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 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, 56-209, 56-236 through 56-240, 56-242, 56-250 through 56-257, 56-260 through 56-266, Idaho Code, and 42 CFR 435.

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 October 15, 2014.

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 statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

These rule changes are being made to clarify definitions and to align with federal regulations to ensure that the Department is in compliance with those regulations. These changes include amending eligibility and presumptive eligibility rules with regard to parent and caretaker relatives.

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:

There is no anticipated fiscal impact to the state general fund, or to any other funds, due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because the changes being made are simple in nature and are being made for clarification and alignment with federal regulations.

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 Camille Mongelli at (208) 334-5969.

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 October 22, 2014.

DATED this 28th day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0301-1401
(Only those Sections being amended are shown.)

010. DEFINITIONS (A THROUGH L).
For the purposes of this chapter, the following terms apply. (3-20-14)

01. Advanced Payment of Premium Tax Credit. Payment of federal tax credits specified in 26 U.S.C. Part 36B (as added by section 1401 of the Affordable Care Act) which are provided on an advance basis to an eligible individual enrolled in a Qualified Health Plan (QHP) through an exchange in accordance with sections 1402 and 1412 of the Affordable Care Act. (3-20-14)

02. Adult. Any individual who has passed the month of his nineteenth birthday. (3-20-14)

03. Affordable Care Act. The Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152). (3-20-14)

04. Applicant. A person applying for public assistance from the Department, including individuals referred to the Department from a Health Insurance Exchange or Marketplace. (3-20-14)

05. Application. An application for benefits including an Application for Assistance (AFA) or other application recognized by the Department, including referrals from a Health Insurance Exchange or Marketplace. (3-20-14)

06. Application Date. The date the Application for Assistance (AFA) is received by the Department or by the Health Insurance Exchange or Marketplace electronically, telephonically, in person, or the date the application is postmarked, if mailed. (3-20-14)

07. Caretaker Relative. A caretaker relative is a relative of a ~~*dependent*~~ child by full- or half-blood, adoption, or marriage with whom the child is living and who assumes primary responsibility for the child's care. A caretaker relative is one of the following: ~~*(3-20-14)*~~(   )

a. A child's natural, adoptive, or step-parents; (3-20-14)

b. A child's natural, adoptive, or step-grandparents; (3-20-14)

c. A child's natural, adoptive, half- or step-siblings; (3-20-14)

d. A child's natural, adoptive, half- or step-uncle, aunt, first cousin, nephew, niece; first cousin once removed; or (3-20-14)

e. A current or former spouse of a qualified relative listed above. (3-20-14)

08. Child. Any individual from birth through the end of the month of his nineteenth birthday. (3-20-14)

09. Citizen. A person having status as a “national of the United States” defined in 8 U.S.C. 1101(a)(22) that includes both citizens of the United States and non-citizen nationals of the United States. (3-20-14)

10. Cost-Sharing. A participant payment for a portion of Medicaid service costs such as deductibles, co-insurance, or co-payment amounts. (3-20-14)

11. Creditable Health Insurance. Creditable health insurance is coverage that provides benefits for inpatient and outpatient hospital services and physicians' medical and surgical services. Creditable coverage excludes liability, limited scope dental, vision, specified disease, or other supplemental-type benefits. (3-20-14)

12. Department. The Idaho Department of Health and Welfare. (3-20-14)

13. Disenrollment. The end of an individual's participation in a Health Care Assistance program. (3-20-14)

14. Electronic Account. An electronic file that includes all information collected and generated by the state regarding each individual's Health Care Assistance eligibility and enrollment, including all documentation required and information collected as part of an eligibility review, or during the course of an appeal. (3-20-14)

15. Eligibility. The determination of whether or not an individual is eligible for participation in a Health Care Assistance program. (3-20-14)

16. Enrollment. The process of adding eligible individuals to a Health Care Assistance program. (3-20-14)

17. Extended Medicaid. Extended Medicaid is four (4) additional months of medical assistance for a parent or relative caretaker who becomes ineligible for Title XIX Medicaid due to an increase in spousal support payments. (3-20-14)

18. Federal Poverty Guidelines (FPG). The federal poverty guidelines issued annually by the Department of Health and Human Services (HHS).The Federal Poverty Guidelines (FPG) are available on the U.S. Health and Human Services website at http://aspe.hhs.gov/poverty. (3-20-14)

19. Health Assessment. Health Assessment is an examination performed by a primary care provider in order to determine the appropriate health plan for a Medicaid-eligible individual. (3-20-14)

20. Health Care Assistance (HCA). Health coverage, including Title XIX or Title XXI benefits granted by the Department for persons or families under the authority of Title 56, Chapter 2, Idaho Code, as well as private health insurance plans purchased with a Premium Tax Credit described in Subsection 010.01 of this rule. (3-20-14)

21. Health Insurance Exchange or Marketplace. A resource where individuals, families, and small businesses can: (3-20-14)

a. Learn about their health coverage options; (3-20-14)

b. Compare health insurance plans based on costs, benefits, and other important features: (3-20-14)

c. Choose a health coverage plan; and (3-20-14)

d. Enroll in health coverage. (3-20-14)

22. Health Insurance Premium Program (HIPP). The Premium Assistance program in which Title XIX and Title XXI participants may participate. (3-20-14)

23. Health Plan. A set of health services paid for by Idaho Medicaid, or health insurance coverage obtained through the Health Insurance Exchange or Marketplace. (3-20-14)

24. Health Questionnaire. A tool used to assist Health and Welfare staff in determining the correct Health Plan for the Medicaid applicant. (3-20-14)

25. Internal Revenue Code. The federal tax law used to determine eligibility under Title 26 U.S.C. for individual income and self-employment income. (3-20-14)

26. Internal Revenue Service (IRS). The U.S. government agency in charge of tax laws. These laws are used to determine income eligibility. The IRS website is at http://www.irs.gov. (3-20-14)

27. Insurance Affordability Programs. Insurance affordability programs include Title XIX title XXI and all insurance programs available in the Health Insurance Exchange or Marketplace. (3-20-14)

28. Lawfully Present. An individual who is a qualified non-citizen as described in Section 221 of

these rules. (3-20-14)

29. Lawfully Residing. An individual who is lawfully present in the United States and is a resident of the state in which they are applying for health care coverage. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

400. PARENTS AND CARETAKER RELATIVES ELIGIBLE FOR MEDICAID COVERAGE.
In order for an ~~*adult*~~ individual in a household budget unit to be eligible for Medicaid coverage, the adult must meet the requirements in Subsections 400.01 through 400.06 of this rule. ~~*(3-20-14)*~~(   )

01. Parent, Caretaker Relative, or a Pregnant Woman. The ~~*adult*~~ individual must be a parent, caretaker relative, or a pregnant woman in the household budget unit. ~~*(3-20-14)*~~(   )

02. Responsible for Eligible Dependent Child. The ~~*adult*~~ individual must be responsible for an eligible dependent child, which includes the unborn child of a pregnant woman. ~~*(3-20-14)*~~(   )

03. Live in Same Household. The ~~*adult*~~ individual must live in the same household with the eligible dependent child. ~~*(3-20-14)*~~(   )

04. MAGI Income Eligibility. The ~~*adult*~~ individual must meet all income requirements of the Medicaid program for eligibility determined according to MAGI methodologies identified in Sections 300 through 303, and 411 of these rules. Eligibility is based on: ~~*(3-20-14)*~~(   )

a. The number of members included in the household budget unit; and (3-20-14)

b. All countable income for the household budget unit. (3-20-14)

05. Member of More Than One Budget Unit. No person may receive benefits in more than one (1) budget unit during the same month. (3-20-14)

06. More Than One Medicaid Budget Unit in Home. If there is more than one (1) Medicaid budget unit in a home, each budget unit is considered a separate unit. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

545. PRESUMPTIVE ELIGIBILITY FOR CHILDREN AND PARENTS.
Presumptive eligibility determination for qualifying medical coverage groups can only be provided by a qualified hospital defined in Section 011 or these rules. (3-20-14)

01. Presumptive Eligibility Decisions. Decisions of presumptive eligibility can only be made for children up to age nineteen (19), parents or caretaker relatives with an eligible child~~*ren*~~ in their household, ~~*caretaker relatives,*~~ or pregnant women, who meet program requirements for MAGI-based Medicaid coverage for families and children. ~~*(3-20-14)*~~(   )

02. Presumptive Eligibility Determination. Presumptive eligibility determinations are made by a qualified hospital when an individual receiving medical services is not covered by health care insurance and the financial assessment by hospital staff indicates the individual is eligible for Medicaid Coverage in Idaho. This determination is made by hospital staff through an online presumptive application process: (3-20-14)

a. Prior to completion of a full Medicaid application; and (3-20-14)

b. Prior to a determination being made by the Department on the full application. (3-20-14)

03. Presumptive Eligibility Period. The presumptive eligibility period begins on the date the presumptive application is filed online and ends with the earlier of the following: (3-20-14)

a. The date the full eligibility determination is completed by the Department; or (3-20-14)

b. The end of the ~~*current*~~ month after the month the qualified hospital completed the presumptive eligibility determination. ~~*(3-20-14)*~~(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.03 - RULES GOVERNING CHILD SUPPORT SERVICES

DOCKET NO. 16-0303-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 7-1206, 32-1209, 32-1214G, 32-1217, 56-203A, and 56-1004, Idaho Code, and 42 CFR 435.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Friday, October 10, 2014, 9:30 a.m.

Department of Health & Welfare
2nd Floor Conference Room
450 West State Street
Boise, Idaho

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 statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

These rule changes are being made to update references for current statutes, and the income withholding processes by removing an outdated form in Appendix A. Changes are also being made to clarify good cause factors that can be considered during suspension of license proceedings and which may not be appropriate when applying the factors to recreational licenses. Definitions and appropriate factors are being added to these rules around license suspension proceedings for the enforcement of child support orders.

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:

There is no anticipated fiscal impact to the state general funds, or to any other funds, due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because the Department determined that the income withholding changes are technical corrections and the recreational license suspension rule changes would not likely be a change on which the Department and those whose licenses may be affected could reach consensus.

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 Kandace Yearsley (208) 334-0620.

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 October 22, 2014.

DATED this 28th day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0303-1401
(Only those Sections being amended are shown.)

000. LEGAL AUTHORITY.
The Department of Health and Welfare is authorized to promulgate these rules under Sections 7-1206, 32-1207, 32-1209, 32-1214G, 32-1217, 56-203A, and 56-1004, Idaho Code. ~~*(5-8-09)*~~(   )

602. FORM OF INCOME WITHHOLDING ORDER.
Income withholding orders issued ~~*pursuant to*~~ under Section ~~*7-1204*~~ 32-1207, Idaho Code, ~~*shall be in substantially the following form set forth in Appendix A at the end of this chapter*~~ will use the Income Withholding For Support form found online at: http://healthandwelfare.idaho.gov/Portals/0/Children/Child%20Support/IWO.pdf. ~~*(7-1-98)*~~(   )

(BREAK IN CONTINUITY OF SECTIONS)

604. GOOD CAUSE DETERMINATION IN LICENSE SUSPENSION PROCEEDINGS.

01. Definitions. ~~*"Person" means an individual.*~~ The following definitions apply for this section of rules: ~~*(7-1-98)*~~(   )

a. "Obligor" means an individual who is ordered to pay child support under an order issued by a court or authorized administrative authority. (   )

b. "Obligee" means an individual who is ordered to receive child support under an order issued by a court or authorized administrative authority. (   )

c. "Motor Vehicle License" means a license required to operate any type of motor vehicle. (   )

d. "Occupational or Professional License" means a license issued to allow a person to practice or engage in any business, occupation, or profession. (   )

e. "Recreational License" means a license, certificate, or permit authorizing an individual to engage in any recreational activity including, but not limited to, hunting, fishing, and trapping. (   )

02. Res Judicata. No issues that have been previously litigated may be considered at the license suspension hearing. (7-1-98)

03. Good Cause in Motor Vehicle and Occupational License Suspension Proceedings. ~~*A*~~ The license suspension shall be denied or stayed if the obligor proves ~~*that*~~ one (1) of the following ~~*has resulted in a current inability to pay the child support obligation*~~ conditions exist: ~~*(7-1-98)*~~(   )

a. The obligor ~~*is*~~ has been declared physically disabled by Social Security, workman's compensation,

or another competent authority that works with disabled individuals, and that disability has directly resulted in the current inability to pay the child support obligation; ~~(7-1-98)~~( )

b. The obligor is experiencing the effects of an extended illness or accident that has directly resulted in the current inability to pay the child support obligation; ~~(7-1-98)~~( )

c. The obligor is a student whose enrollment is a result of a referral from Vocational Rehabilitation, workman's compensation, or other competent authority working with disabled individuals; ~~*or*~~ ~~(7-1-98)~~( )

d. The obligor is incarcerated in any county, ~~*or*~~ state, or federal correctional facility, and proves that he or she has no assets. ~~(7-1-98)~~( )

e. The obligor is receiving TAFI~~.~~ or Supplemental Security Income benefits; ~~(7-1-99)~~( )

f. The obligor has court-ordered physical custody of all of the children listed in the order or orders for support~~.~~; ~~(3-30-01)~~( )

g. Child support is being collected directly from the obligor's income through an income withholding order issued by the Department to the obligor's employer or other income source. (7-1-99)

04. Not Good Cause in Motor Vehicle and Occupational License Suspension Proceedings. Any factor not defined as good cause in Subsection 604.03 is not good cause for a denial or stay of a license suspension, including but not limited to the following: ~~(7-1-98)~~( )

a. The obligor is unemployed, underemployed, or has difficulty maintaining consistent employment; (7-1-98)

b. The obligor ~~*is*~~ claims to be disabled but has not applied for disability or other benefits, or has been refused benefits; ~~(7-1-98)~~( )

c. The obligor asserts that the child support obligation is too high; (7-1-98)

d. The obligor has been denied full visitation with the child or children; or (7-1-98)

e. The obligor alleges the obligee misuses the child support. (7-1-98)

05. Good Cause in Recreational License Suspension Proceedings. The license suspension shall only be stayed if the obligor proves one (1) of the following conditions exist: ( )

a. The obligor is receiving TAFI or Supplemental Security Income benefits; or ( )

b. The obligor has court-ordered physical custody of all of the children listed in the order or orders for support. ( )

(BREAK IN CONTINUITY OF SECTIONS)

~~***APPENDIX A -- ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT***~~

~~***ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT***~~

~~*State*~~ ____________________ ~~*Original Order/Notice*~~

~~*Co./City/Dist. of*~~ __________ ____________________

~~*Amended Order/Notice*~~

Date of Order/Notice ________________ ____
Terminate Order/Notice

Court/Case Number ________________ ____

Employer/Withholder's Federal EIN Number) RE: *
) Employee/Obligor's Name (Last, First, MI)
) Employee/Obligor's Social Security Number
Employer/Withholder's Name) *
Employer/Withholder's Name) Employee/Obligor's Case Identifier
) Custodial Parent's Name (Last, First, MI)
)

Child(ren)'s Name(s): **DOB** **Child(ren)'s Name(s):** **DOB**

ORDER INFORMATION: This is an Order/Notice to Withhold Income for Child Support based upon an order for support from ________________________. By law, you are required to deduct these amounts from the above-named employee's/obligor's income until __________ even if the Order/Notice is not issued by your State.

_ If checked, you are required to enroll the child(ren) identified above in any health insurance coverage available through the employee's/obligor's employment. ____________________________________

$______ per________ in current support
$______ per________ in past-due support Arrears 12 weeks or greater? _ yes _ no
$______ per________ in medical support
$______ per________ in other (specify)
$______ per________ in other (specify)

for a total of $_______ per_________ to be forwarded to the payee below.

You do not have to vary your pay cycle to be in compliance with the support order. If your pay cycle does not match the ordered support payment cycle, use the following to determine how much to withhold:
$_________ per weekly pay period. $__________ per semimonthly pay period (twice a month).
$_________ per biweekly pay period (every two weeks). $____________ per monthly pay period.

REMITTANCE INFORMATION: Follow the laws and procedures of the employee's/obligor's principal place of employment even if such laws and procedures are different from this paragraph:

> You must begin withholding no later than the first pay period occurring ________________ working days after the date of this Order/Notice. Send payment within _______________ working days of the paydate date of withholding. You are entitled to deduct a fee of _______________ to defray the cost of withholding. The total withheld amount, including your fee, cannot exceed _____% the employee/obligor's aggregate disposable weekly earnings. For the purpose of the limitation on withholding, the following information is needed (see #9 below):

When remitting payment provide the paydate/date of withholding and the case identifier __________________.
If remitting by EFT/EDI, use this FIPS code: *; _ _ _ _ _ _; Bank routing code:*______________;
Bank account number:*__________________.

Make it payable to: **Payee and case identifier**

Send check to: **Payee's Address**

Authorized by ____________________________________

~~*Print Name ___________________________________*~~

~~***ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS***~~

~~***____If checked you are required to provide a copy of this form to your employee.***~~

~~*1. **Priority:** Withholding under this Order/Notice has priority over any other legal process under State law against the same income. Federal tax levies in effect before receipt of this order have priority. If there are Federal tax levies in effect please contact the requesting agency listed below.*~~

~~*2. **Combining Payments:** You can combine withheld amounts from more than one employee/obligor's income in a single payment to each agency requesting withholding. You must, however, separately identify the portion of the single payment that is attributable to each employee/obligor.*~~

~~*3. **Reporting the Paydate/Date of Withholding:** You must report the paydate/date of withholding when sending the payment. The paydate/date of withholding is the date on which the employee is paid and controls the income, i.e. the date the income check or cash is given to the employee, or the date in which the income is deposited directly in his/her account.*~~

~~*4. **Employee/Obligor with Multiple Support Withholdings:** If you receive more than one Order/Notice against this employee/obligor and you are unable to honor them all in full because together they exceed the withholding limit of the State of the employee's principal place of employment (see #9 below), you must allocate the withholding based on the law of the State of the employee's principal place of employment. If you are unsure of that State's allocation law, you must honor all Orders/Notices' current support withholdings before you withhold for any arrearages, to the greatest extent possible under the withholding limit. You should immediately contact the last agency that sent you an Order/Notice to find the allocation law of the state of the employee's principal place of employment.*~~

~~*5. **Termination Notification:** You must promptly notify the payee when the employee/obligor is no longer working for you. Please provide the information requested and return a copy of this order/notice to the agency identified below.*~~

~~***EMPLOYEE'S/OBLIGOR'S NAME: _________________________________***~~
~~***EMPLOYEE'S CASE IDENTIFIER: __________________DATE OF SEPARATION: ___________________.***~~
~~***LAST KNOWN HOME ADDRESS ___________________________.***~~
~~***NEW EMPLOYER'S ADDRESS ____________________________.***~~

~~*6. **Lump Sum Payments:** You may be required to report and withhold from lump sum payments such as bonuses, commissions, or severance pay. If you have any questions about lump sum payments, contact the person or authority below.*~~

~~*7. **Liability:** If you fail to withhold income as the Order/Notice directs, you are liable for both the accumulated amount you should have withheld from the employee/obligor's income and any other penalties set by State law.*~~

~~*8. **Anti-discrimination:** You are subject to a fine determined under State law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against any employee/obligor because of a child support withholding.*~~

~~*9. **Withholding Limits:** You may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C. Section 1673(b)); or 2) the amounts allowed by the State of the employee's/obligor's principal place of employment. The Federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as: State, Federal, local*~~

~~*taxes; Social Security taxes; and Medicare taxes. The Federal CCPA limit is 50% of the ADWE for child support and alimony, which is increased by: 1) 10% if the employee does not support a second family; and/or 2) 5% if arrears are more than 12 weeks old. (see boxes on front)*~~

~~*10.*~~ ____
____
____

~~***Requesting Agency***~~ ______________________
____
____
____

~~*If you or your employee/obligor have any questions, contact:*~~

~~*by telephone at ____________________ or*~~
~~*by FAX at _______________________ or*~~
~~*by Internet _______________________.*~~

~~*(7-1-98)*~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

DOCKET NO. 16-0304-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-203, Idaho Code, and 7 CFR 271.2.

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 October 15, 2014.

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 will align the definition of "trafficking," in this chapter with the revised federal definition under 7 CFR 271.2. This rulemaking expands the definition of "trafficking" to include fraudulent activities previously not considered to be program violations.

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:

There is no anticipated fiscal impact to the state general fund or any other funds as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. Negotiated rulemaking was deemed not feasible as this rule change is simple in nature.

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 Malinda Jones at (208) 334-5779.

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 October 22, 2014.

DATED this 29th day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0304-1401
(Only those Sections being amended are shown.)

698. INTENTIONAL PROGRAM VIOLATION (IPV).
An IPV includes the actions listed in Subsections 698.01 through 698.06 of these rules. The client must intentionally, knowingly, and willfully commit a program violation. (3-30-07)

01. False Statement. A person makes a false statement to the Department, either orally or in writing, to get Food Stamps. (6-1-94)

02. Misleading Statement. A person makes a misleading statement to the Department, either orally or in writing, to get Food Stamps. (6-1-94)

03. Misrepresenting. A person misrepresents facts to the Department, either orally or in writing, to get Food Stamps. (6-1-94)

04. Concealing. A person conceals or withholds facts to get Food Stamps. (6-1-94)

05. Violation of Regulations. A person commits any act violating the Food Stamp Act, Federal regulations, or State Food Stamp regulations. The violation may relate to use, presentation, transfer, acquisition, receipt, or possession of Food Stamps. (3-30-07)

06. Trafficking in Food Stamps. Trafficking in Food Stamps means ~~*the buying or selling of Food Stamps or other benefit instruments for cash, or consideration other than eligible food. Trafficking includes the exchange of firearms, ammunition, explosives, or controlled substances, as defined in Section 802 of Title 21, USC, for benefit instruments.*~~ any of the following: ~~*(3-30-07)*~~( )

a. The buying, selling, stealing, or otherwise effecting an exchange of food stamp benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; ( )

b. Attempting to buy, sell, steal, or otherwise affect an exchange of food stamp benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; ( )

c. The exchange of firearms, ammunition, explosives, or controlled substances, as defined in Section 802 of Title 21, U.S.C., for food stamp benefits; ( )

d. Purchasing a product with food stamp benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount; ( )

e. Purchasing a product with food stamp benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with food stamp benefits in exchange for cash or consideration other than eligible food; or ( )

f. Intentionally purchasing products originally purchased with food stamp benefits in exchange for cash or consideration other than eligible food. ( )

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED (AABD)

DOCKET NO. 16-0305-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, 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 October 15, 2014.

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:

These rule changes are needed to clarify participant liability for pre-existing medical expenses based on guidance received from the Centers for Medicaid and Medicare (CMS). The Department is also changing the rules to improve the administration of the AABD program for participants in long-term care settings, which include a change to the share of cost determination for participants who enter or leave a nursing home during the middle of the month.

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

The anticipated annual fiscal impact for this rulemaking for the change in nursing home patient liability is a total impact of $571,536, with federal matching funds at 71.82% and state matching funds at 28.18%. The anticipated annual fiscal impact for the share of cost for patient liability uses the same federal and state matching funds for a total impact of $403,200.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because the changes being made are simple in nature and are being made for clarification and alignment with federal regulations.

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 Camille Mongelli at (208) 334-5969.

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 October 22, 2014.

DATED this 29th day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0305-1401
(Only those Sections being amended are shown.)

304. PROSPECTIVE ELIGIBILITY.
Eligibility for AABD cash and Medicaid is prospective. Expected income for the month is compared to the participant's income limit that month. ~~*See Section 612 for patient liability income rules.*~~ ~~*(7-1-99)*~~(   )

(BREAK IN CONTINUITY OF SECTIONS)

722. PATIENT LIABILITY.
Patient liability is the participant's income counted toward the cost of long-term care. Patient liability ~~*starts*~~ begins the month after the first full calendar month the patient ~~*lives*~~ is receiving benefits in a long-term care facility. ~~*(7-1-99)*~~(   )

723. PATIENT LIABILITY FOR PERSON WITH NO COMMUNITY SPOUSE.
For a participant with no community spouse, patient liability is computed as described in Subsections 723.01 through 723.03 of this rule. (5-3-03)

01. Income of Participants in Long-Term Care. For a single participant, or participant whose spouse is also in long-term care and chooses the SSI method of calculating the amount of income and resources, the patient liability is his total income less the deductions in Subsection 723.03 of this rule. (5-3-03)

02. Community Property Income of Long-Term Care Participant with Long-Term Care Spouse. Patient liability income for a participant, whose spouse is also in long-term care, choosing the community property method, is one-half (1/2) his share of the couple's community income, plus his own separate income. The deductions in Table 723.03 are subtracted from his income. (7-1-99)

03. Income of Participant in Facility. A participant residing in the long-term care facility at least one (1) full calendar month, beginning with his most recent admission, must have the deductions in Subsection 723.03 subtracted from his income, after the AABD exclusions are subtracted from the income. Total monthly income includes income paid into an income (Miller) trust that month. The income deductions must be subtracted in the order listed. Remaining income is patient liability. (3-15-02)

a. AABD Income Exclusions. Subtract income excluded in determining eligibility for AABD cash. (7-1-99)

b. Aid and Attendance and UME Allowances. Subtract a VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse, unless the veteran lives in a state operated veterans' home. (3-30-01)

c. SSI Payment Two (2) Months. Subtract the SSI payment for a participant entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility. (7-1-99)

d. AABD Payment. Subtract the AABD payment, and income used to compute the AABD payment, for a participant paid continued AABD payments up to three (3) months in long-term care. (7-1-99)

e. First Ninety ($90) Dollars of VA Pension. Subtract the first ninety ($90) dollars of a VA pension for a veteran in a private long-term care facility or a State Veterans Nursing Home. (5-3-03)

f. Personal Needs. Subtract forty dollars ($40) for the participant's personal needs. For a veteran or surviving spouse in a private long-term care facility or a State Veterans Nursing Home the first ninety ($90) dollars of VA pension substitutes for the forty dollar ($40) personal needs deduction. (5-3-03)

g. Employed and Sheltered Workshop Activity Personal Needs. For an employed participant or participant engaged in sheltered workshop or work activity center activities, subtract the lower of the personal needs deduction of two hundred dollars ($200) or his gross earned income. The participant's total personal needs allowance must not exceed two hundred and thirty dollars ($230). For a veteran or surviving spouse with sheltered workshop or earned income, and a protected VA pension, the total must not exceed two hundred dollars ($200). This is a deduction only. No actual payment can be made to provide for personal needs. (3-30-01)

h. Home Maintenance. Subtract two hundred and twelve dollars ($212) for home maintenance cost if the participant had an independent living situation, before his admission for long-term care. His physician must certify in writing the participant is likely to return home within six (6) months, after the month of admission to a long-term care facility. This is a deduction only. No actual payment can be made to maintain the participant's home. (7-1-99)

i. Maintenance Need. Subtract a maintenance need deduction for a family member, living in the long-term care participant's home. A family member is claimed, or could be claimed, as a dependent on the Federal Income Tax return of the long-term care participant. The family member must be a minor or dependent child, dependent parent, or dependent sibling of the long-term care participant. The maintenance need deduction is the AFDC payment standard for the dependents, computed according to the AFDC State Plan in effect before July 16, 1996. (7-1-99)

j. Medicare and Health Insurance Premiums. Subtract expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Medicare Part B premiums must not be subtracted, if the participant got SSI or AABD cash the month prior to the month for which patient liability is being computed. (7-1-99)

k. Mandatory Income Taxes. Subtract taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the participant receives the income. (7-1-99)

l. Guardian Fees. Subtract court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars ($25). Where the guardian and trustee is the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars ($25) monthly. (3-20-14)

m. Trust Fees. Subtract up to twenty-five dollars ($25) monthly paid to the trustee for administering the participant's trust. (7-1-99)

n. Impairment Related Work Expenses. Subtract impairment-related work expenses for an employed participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services that are purchased or rented to perform work. The items must be needed because of the participant's impairment. The actual monthly expense of the impairment-related items is subtracted. Expenses must not be averaged. (3-20-14)

o. Income Garnished for Child Support. Subtract income garnisheed for child support to the extent the expense is not already accounted for in computing the maintenance need standard. (3-30-01)

p. Incurred Medical Expenses. Subtract amounts for certain limited medical or remedial care expenses that have current balances owed and are deemed medically necessary as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." Current medical expenses that are not covered by the Idaho Medicaid Plan, or by a third party, may be deducted from the base participation amount. ( )

(BREAK IN CONTINUITY OF SECTIONS)

725. PATIENT LIABILITY FOR PARTICIPANT WITH COMMUNITY SPOUSE.

After income ownership is decided, patient liability is determined using steps in Table 725.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
Step		**Procedure**
01.	AABD Income Exclusions	Subtract income excluded in determining eligibility for AABD cash.
02.	Aid and Attendance and UME Allowances	Subtract a VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse, unless the veteran lives in a state operated veterans' home.
03.	SSI Payment Two (2) Months	Subtract the SSI payment for a participant entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility.
04.	AABD Cash	Subtract the AABD cash payment and income used to compute AABD cash, for a participant eligible to have his AABD cash continued up to three (3) months, while he is in long-term care.
05.	VA Pension	Subtract the first ninety (90$) of the VA pension for a veteran.
06.	Personal Needs	Subtract forty dollars ($40) for the participant’s personal needs. Do not allow this deduction for a veteran.
07.	Employed and Sheltered Workshop Activity Needs	For an employed participant or participant engaged in sheltered workshop or work activity center activities subtract the lower of two hundred dollars ($200) or his earned income.
08.	Community Spouse Allowance: Step a.	Compute the Community Spouse Allowance (CSA) using Step a. through Step c. Compute the Shelter Adjustment. Add the current Food Stamp Program Standard Utility Allowance to the community spouse's shelter costs. Shelter costs include rent, mortgage principal and interest, homeowner's taxes, insurance, and condominium or cooperative maintenance charges. The Standard Utility Allowance must be reduced by the value of any utilities included in maintenance charges for a condominium or cooperative. Subtract the Shelter Standard from the shelter and utilities. The Shelter Standard is thirty percent (30%) of one hundred fifty percent (150%) of one-twelfth (1/12) of the income official poverty line defined by the Federal Office of Management and Budget (OMB) for a family of two (2) persons. The Shelter Adjustment is the positive balance remaining.
09.	Community Spouse Allowance: Step b.	Compute the Community Spouse Need Standard (CSNS). Add the Shelter Adjustment to the minimum CSNS. The minimum CSNS equals one hundred fifty percent (150%) of one-twelfth (1/12) of the income official poverty line defined by the OMB for a family unit of two (2) members. The minimum CSNS is revised annually in July. The total CSNS may not exceed the maximum CSNS. The maximum CSNS is computed by multiplying one thousand five hundred dollars ($1,500) by the percentage increase in the consumer price index for all urban Consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. The maximum CSNS is revised annually in January.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
Step		Procedure
10.	Community Spouse Allowance: Step c.	Compute the Community Spouse Allowance. Subtract the community spouse's gross income from the CSNS. The community spouse's income includes income produced by his resources. Round any remaining cents to the next higher dollar. Any positive balance remaining is the CSA. The CSA is subtracted as actually paid to the community spouse, up to the computed maximum. A larger spouse support amount must be used as the CSA, if court-ordered. The CSA ordered by a court is not subject to the CSA limit.
11.	Family Member Allowance (FMA)	Compute the family member's gross income. Subtract the family member's gross income from the minimum CSNS. Divide the difference by three (3). Round cents to the next higher dollar. Any remainder is the FMA for that family member. The FMA is allowed, whether or not it is actually paid by the participant. A family member is, or could be claimed, as a dependent on the Federal income tax return of either spouse. The family member must be a minor or dependent child, dependent parent or dependent sibling of either spouse. The family member must live in the community spouse's home.
12.	Medicare and Health Insurance Premiums	Subtract expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Do not subtract the Medicare Part B premiums if the participant got SSI or AABD cash the month prior to the month for which patient liability is being computed.
13.	Mandatory Income Taxes	Subtract taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the participant receives the income.
14.	Guardian Fees	Subtract court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars ($25). Where the guardian and trustee are the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars ($25) monthly.
15.	Trust Fees	Subtract up to twenty-five dollars ($25) monthly paid to the trustee for administering the participant's trust.
16.	Impairment Related Work Expenses	Subtract impairment-related work expenses for an employed participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services, purchased or rented to perform work. The items must be needed because of the participant's impairment. The actual monthly expense of the impairment-related items is subtracted. Expenses must not be averaged.
17.	Income Garnisheed for Child Support	Subtract income garnisheed for child support to the extent the expense is not already accounted for in computing the Family Member Allowance.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
Step		**Procedure**
18.	Incurred Medical Expenses	Subtract amounts for certain limited medical or remedial care expenses that have current balances owed and are deemed medically necessary as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." Current medical expenses that are not covered by the Idaho Medicaid Plan, or by a third party, may be deducted from the base participation amount.

~~(5-3-03)~~(   )

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.07 - THE INVESTIGATION AND ENFORCEMENT OF FRAUD, ABUSE, AND MISCONDUCT

DOCKET NO. 16-0507-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 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(b), 56-203(1) & (2), 56-209, 56-209(h), 56-227, 56-227A through D, 56-1001, and 56-1003, 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 October 15, 2014.

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 statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The Department has determined that the current practice concerning reinstatement of an individual or entity who has been excluded from the Medicaid program should be added to these rules for consistency within the Department. These proposed rules are based on the current reinstatement process for individuals or entities whose exclusions are over and who would like to be reinstated by the Department.

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:

There is no anticipated fiscal impact to the state general fund or to any other funds due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was conducted and the Notice of Negotiated Rulemaking was published in the July 2, 2014, Idaho Administrative Bulletin, **Vol. 14-7, Page 80**.

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 Lori Stiles at (208) 334-0653.

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 October 22, 2014.

DATED this 18th Day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-003
Tel (208) 334-5564 / Fax (208) 334-6558
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0507-1401
(Only those Sections being amended are shown.)

261. REINSTATEMENT AFTER EXCLUSION FROM MEDICAID PROGRAM.
An individual or entity who has been excluded from the Medicaid Program is not automatically reinstated at the end of the exclusion period. An individual or entity excluded by the Department must submit a written application for reinstatement to the Department. An applicant excluded by the Department must receive written notice of reinstatement from the Department before reinstatement is complete. ( )

01. Conditions for Reinstatement. In order to be reinstated, the applicant for reinstatement must meet all criteria in Subsections 261.01.a. through 261.01.i. of this rule. The applicant must be an individual or entity: ( )

a. Who is not currently excluded from the Medicaid program by the federal government or by any state Medicaid agency; ( )

b. Whose Medicaid provider number is not currently terminated by any state Medicaid agency; ( )

c. Whose debts to the Department are paid in full; ( )

d. Who is not the subject of any civil, criminal, or state licensing authority investigation; ( )

e. Who has not been convicted of any crime during the exclusion period; ( )

f. Who has all the required, valid licensure and credentials necessary to provide services; ( )

g. Who has met and continues to meet all terms and conditions of any court-ordered probation;( )

h. Who did not work in any capacity as an employee or contractor for any individual or entity receiving Medicaid funds during the applicant's exclusion period; and ( )

i. Who did not submit claims or cause claims to be submitted for Medicaid reimbursement for services or supplies provided, ordered, or prescribed by an excluded individual or entity during the applicant's exclusion period. ( )

02. Applying for Reinstatement. An individual or entity may not begin the process of reinstatement earlier than one hundred twenty (120) days before the end of the exclusion period specified in the exclusion notice. The Department will not consider a premature application. An applicant that appears on the federal or any state exclusion list may apply for reinstatement, but consideration of the application will not start until after the excluding agency has reinstated the individual or entity. ( )

03. Request for Reinstatement. An excluded individual or entity must request an application form in writing from the Department and specifically request reinstatement. The request for reinstatement must include: ( )

a. The applicant's name, address, and phone number; and ( )

b. Copies of any required license, credentials, and provider number, if they exist. ( )

04. Complete Application for Reinstatement. The applicant must complete the reinstatement application form and return the fully executed and notarized form to the Department. ( )

05. Department Decision. The Department will issue a written decision to grant or deny a request for

reinstatement. ( )

06. Reinstatement Denied. When an application for reinstatement is denied, the applicant is ineligible to reapply for one (1) year from the date the decision of denial becomes final. ( )

2612. -- 264. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

300. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

The Department will notify the Office of Inspector General within fifteen (15) days after a final action in which a person has been excluded, or convicted of a criminal offense related to participation in the delivery of health care items or services under the Medicaid program, or reinstated from a prior exclusion. (3-30-07)( )

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.33 - ADULT MENTAL HEALTH SERVICES

DOCKET NO. 16-0733-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-3133, Idaho Code,

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

ORIGINATING LOCATION -- LIVE MEETING Friday, October 17, 2014 10:00 a.m. (MDT) / 9:00 a.m. (PDT)
Idaho Department of Health & Welfare, Central Office Conference Room 3A (3rd floor) 450 West State Street Boise, ID 83702

VIDEOCONFERENCE LOCATIONS	
Region I Office – Coeur d'Alene Main Conference Room 2195 Ironwood Court Coeur d'Alene, ID 83814	Region II Office – Lewiston 1st Floor Conference Rm. 1118 "F" Street Lewiston, ID 83501
Region III Office – Caldwell Owyhee Conference Room (Rm. 226) 3402 Franklin Road Caldwell, ID 83605	Region IV Office – Boise Room 142 1720 Westgate Drive, Suite A Boise, ID 83704
Region V Office – Twin Falls Room 116 823 Harrison Twin Falls, ID 83301	Region VI Office – Pocatello Room 225 421 Memorial Drive Pocatello, ID 83201
Region VII Office – Idaho Falls Room 240 150 Shoup Ave. Idaho Falls, ID 83402	State Hospital South – Blackfoot Administration Bldg., Classroom A09 700 E. Alice Street Blackfoot, ID 83221

VIDEOCONFERENCE LOCATIONS, Continued

State Hospital North
Administration Conference Room 234
300 Hospital Drive
Orofino, ID 83544

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:

These rule changes update and align this chapter of rules with the current environment and best practices being utilized in the adult mental health field. The current rules do not reflect changes that have been made to adult mental health services through Medicaid and other federal and state laws. In order for eligible participants to have better outcomes and to use best practices in the treatment of adult mental health services, these proposed rules:

1. Amend and add definitions for current terminology;
2. Remove obsolete language and sections of rules that are no longer applicable; and
3. Clarify current mental health services available through the Department.

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:

There is no anticipated fiscal impact to the state general fund or to any other funds due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because these rules are being amended based on current policies, best practices, laws, and regulations for adult mental health services the Department provides.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the Department is updating a document incorporated by reference in this chapter to a newer edition. The American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, DSM-5, is incorporated in this chapter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Treena Clark at (208) 334-6611.

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 October 22, 2014.

DATED this 29th Day of August, 2014.

Tamara Prisock
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0733-1401
(Only those Sections being amended are shown.)

001. TITLE AND SCOPE.

01. Title. The title of these rules is~~,~~ IDAPA 16.07.33, "Adult Mental Health Services." ~~*(5-8-09)*~~(____)

02. Scope. ~~*(5-8-09)*~~

~~***a.***~~ This chapter defines the scope of ~~*voluntary adult mental health*~~ services, ~~*administered under the Department's Division of Behavioral Health*~~, ~~*and describes the*~~ eligibility criteria, application requirements, individualized treatment plan requirements, and appeal process ~~*under these rules. This chapter is not intended to, and does not, establish an entitlement for or to receive adult mental health services, nor is it intended to be applicable to individuals ordered by the court to receive mental health services.*~~ for the provision of adult mental health services administered under the Department's Division of Behavioral Health. ~~*(5-8-09)*~~(____)

~~***b.***~~ ~~*The priority population for this chapter is adult individuals, voluntarily seeking mental health services, who are residents of Idaho and have a primary diagnosis of serious and persistent mental illness. However, under certain circumstances, in accordance with the waiver provision in Section 400 of these rules, adult mental health services may be available to those who do not have a primary diagnosis of serious and persistent mental illness.*~~ ~~*(5-8-09)*~~

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.
American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, ~~*Fourth*~~ Fifth Edition, ~~*Text Revision*~~ (DSM-~~*IV-TR*~~5) Washington, DC, American Psychiatric Association, 20~~*00*~~13, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, ~~*1400 K Street, N.W., Washington, DC, 20005*~~ 1000 Wilson Boulevard, Suite 1825, Arlington, Va. 22209-3901. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. ~~*(5-8-09)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS - A THROUGH F.
For the purposes of these rules, the following terms are used as defined below: (5-8-09)

01. Adult. An individual eighteen (18) years of age or older. (5-8-09)

02. Adult Mental Health Services. Adult mental health services ~~*include psychiatric clinical services, case management, individual therapy, group therapy, psychosocial rehabilitation (PSR), assertive community treatment (ACT), patient assistance program (PAP), benefit assistance, co-occurring disorders treatment, and pharmacological education. Mental health services do not include educational or vocational services related to traditional academic subjects or vocational training, experimental procedures, habilitation, or any other services which are primarily recreational or diversional in nature*~~ are listed in Section 301 of these rules. These services are provided in response to the mental health needs of adults eligible for services required in Title 39, Chapter 31, Idaho Code, the Regional Behavioral Health Service Act, and under Section 102 of these rules. ~~*(5-8-09)*~~(____)

03. Applicant. An adult individual who is seeking mental health services through the Department who has completed, or had completed on his behalf, an application for mental health services. (5-8-09)

04. **Assessment**. The gathering of historical and current clinical information through a clinical interview and from other available resources to identify a client's mental health issues, strengths, and service needs. ( )

05. **Assertive Community Services**. Comprehensive, intensive, and long-term rehabilitative services provided to clients who suffer from serious and persistent mental illness (SPMI) who have not benefited from traditional outpatient programs. ( )

06. **Behavioral Health**. An integrated system for evaluation and treatment of mental health and substance use disorders. ( )

07. **Behavioral Health Center**. State-operated community-based centers located in each of the seven (7) geographical regions of Idaho that provide or arrange for adult mental health services listed under Section 301 of these rules. ( )

08. **Case Management**. A change-oriented service provided to clients that assures and coordinates the provision of an assessment, treatment planning, treatment and other services, protection, advocacy, review and reassessment, documentation, and timely closure of a case. ( )

0~~4~~9. **Client**. A person receiving mental health services through the Department. The term "client" is synonymous with the following terms: patient, participant, resident, consumer, or recipient of treatment or services. (5-8-09)

~~05~~10. **Clinical Judgment**. Refers to observations and perceptions based upon education, experience, and clinical assessment. This may include psychometric, behavioral, and clinical interview assessments that are structured, integrated, and then used to reach decisions, individually or collectively, about an individual's functional, mental, and behavioral attributes and mental health service needs. (5-8-09)

~~06~~11. **Clinical Necessity**. Adult mental health services are deemed clinically necessary when the Department, in the exercise of clinical judgment, recommends services to an applicant for the purpose of evaluating, diagnosing, or treating a mental illness and that are: (5-8-09)

a. Clinically appropriate, in terms of type, frequency, extent, site, and duration, and considered effective for treating the applicant's mental illness; and (5-8-09)

b. Not primarily for the convenience of the applicant or service provider, not more costly than an alternative service or sequence of services, and at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the applicant's mental illness. (5-8-09)

~~07~~12. **Clinical Team**. A proposed client's clinical team may include: qualified clinicians, behavioral health professionals, professionals other than behavioral health professionals, behavioral health technicians, and any other individual deemed appropriate and necessary to ensure that the treatment is comprehensive and meets the needs of the proposed client. (5-8-09)

13. **Crisis Intervention Services**. A set of planned activities designed to reduce the risk of life-threatening harm to self or another person. Crisis intervention services include evaluation, assessment, intervention, stabilization, and follow-up planning. ( )

~~08~~14. **Department**. The Idaho Department of Health and Welfare or its designee. The Department is designated as the State Mental Health Authority under Section 39-3124, Idaho Code. (5-8-09)

~~***09.*** ***Emergency****. An emergency exists if an adult individual is gravely disabled due to mental illness or there is a substantial risk that physical harm will be inflicted by the proposed client: (5-8-09)*~~

~~***a.*** *Upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or (5-8-09)*~~

~~*b.* *Upon another person, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm.* *(5-8-09)*~~

1~~*0*~~5. **Federal Poverty Guidelines**. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found at: http://aspe.hhs.gov/poverty/. (5-8-09)

1~~*1*~~6. **Functional Impairment**. Difficulties that substantially impair or limit role functioning with an individual's basic daily living skills, or functioning in social, family, vocational, or educational contexts including psychiatric, health, medical, financial, and community or legal area, or both. (5-8-09)

011. DEFINITIONS - G THROUGH Z.
For the purposes of these rules, the following terms are used as defined below: ( )

~~*12*~~01. **Good Cause**. A valid and sufficient reason for not complying with the time frame set for submitting a written request for a waiver by an individual who does not receive a criminal history and background check clearance. (7-1-14)

~~*13*~~02. **Gravely Disabled**. An adult who, as a result of mental illness, is in danger of serious physical harm due to the person's inability to provide for any of his basic needs for nourishment, essential medical care, shelter, or safety. (5-8-09)

~~*14*~~03. **Individualized Treatment Plan**. A written action plan based on an intake eligibility assessment, that identifies the applicant's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives, and the criteria for terminating the specified interventions. (5-8-09)

~~***15.*** ***Intake Eligibility Assessment***. *The collection of data, analysis, and review that the Department uses to screen and determine whether an applicant is eligible for mental health services available through the Department.* *(5-8-09)*~~

04. **Medication Management**. The in-depth management of medications for psychiatric disorders for relief of a client's signs and symptoms of mental illness, provided by a physician or mid-level practitioner. ( )

05. **Mental Health Crisis**. A mental health crisis occurs when a sudden loss of an adult individual's ability to use effective problem-solving and coping skills leads to an imminent risk of harm to self or others, or decompensation to the point of the individual's inability to protect himself or herself. ( )

06. **Outpatient Services**. Mental health services provided to a client who is not admitted to a psychiatric hospital or in a residential care setting. ( )

07. **Psychiatric Services**. Medically necessary outpatient and inpatient services provided to treat and manage psychiatric disorders. ( )

08. **Rehabilitative and Community-Based Services**. Skill-building services that foster rehabilitation and recovery provided to client recovering from a mental illness. ( )

09. **Residential Care**. A setting for the treatment of mental health that provides twenty-four (24) hours per day, seven (7) days a week, living accommodations for clients. ( )

1~~*6*~~0. **Serious Mental Illness (SMI)**. Means any of the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders~~, *Text Revision* (~~DSM-I~~*V-TR)*~~5, incorporated in Section 004 of these rules: ~~*(5-8-09)*~~( )

a. Schizophrenia spectrum and other psychotic disorders; ~~*(5-8-09)*~~( )

~~*b.* *Paranoia and other psychotic disorders;* *(5-8-09)*~~

~~c~~b. Bipolar disorders (mixed, manic and depressive); (5-8-09)

~~d~~c. Major depressive disorders (single episode or recurrent); (5-8-09)

~~**e.** *Schizoaffective disorders; and* *(5-8-09)*~~

~~f~~d. Obsessive-compulsive disorders. (5-8-09)

1~~7~~1. Serious and Persistent Mental Illness (SPMI). A primary diagnosis under DSM-~~*IV-TR*~~5 of Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Psychotic Disorder Not Otherwise Specified (NOS) for a maximum of one hundred twenty (120) days without a conclusive diagnosis. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following functional areas in the last six (6) months: ~~*(5-8-09)*~~(____)

a. Vocational or educational, or both. (5-8-09)

b. Financial. (5-8-09)

c. Social relationships or support, or both. (5-8-09)

d. Family. (5-8-09)

e. Basic daily living skills. (5-8-09)

f. Housing. (5-8-09)

g. Community or legal, or both. (5-8-09)

h. Health or medical, or both. (5-8-09)

1~~8~~2. Sliding Fee Scale. A scale used to determine an individual's financial obligation for services based on Federal Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (5-8-09)

1~~9~~3. Substantial Material Change in Circumstances. A substantial and material change in circumstances which renders the Department's decision denying mental health services arbitrary and capricious. (5-8-09)

01~~1~~2. -- 099. (RESERVED)

100. ACCESSING ADULT MENTAL HEALTH SERVICES.

Adult mental health services may be accessed ~~*by eligible applicants*~~ either through an application ~~*and request for initial intake eligibility assessment*~~ for services, or through a court order for services. ~~*(5-8-09)*~~(____)

0~~1~~1. ELIGIBILITY SCREENING AND ~~*INTAKE ELIGIBILITY*~~ MENTAL HEALTH ASSESSMENT.

01. Eligibility Screening. A screening for eligibility for adult mental health services through the Department is based on the eligibility criteria under Section 102 of these rules. If an applicant meets the eligibility criteria, he may be eligible for adult mental health services through the Department. If an applicant does not meet the eligibility criteria, he may be referred to other appropriate services. All applicants are required to complete an Application for Mental Health Services. If an applicant refuses to complete the Application for Mental Health Services, the Department reserves the right to discontinue the screening process for eligibility. The eligibility screening must be directly related to the applicant's mental illness and level of functioning and will include: ~~*(5-8-09)*~~(____)

a. Application for Mental Health Services; (____)

b. Notice of Privacy Practice; and ( )

c. Authorization for Disclosure. ( )

02. ~~***Intake Eligibility***~~ **Mental Health Assessment**. ~~*A qualified clinician will complete an intake eligibility assessment on the Department-approved form. The intake eligibility assessment and supplemental psychiatric, psychological, or other specialty evaluations and tests must be dated, signed, and retained in the applicant's medical record. The intake eligibility assessment must be directly related to the applicant's mental illness and level of functioning, and will include:*~~ Once a signed application or court order has been received for adult mental health services, the Department will schedule and conduct a mental health assessment. Each mental health assessment will be completed by a Department clinician and will be documented using the Department's Idaho Standard Mental Health Assessment Report. ~~*(5-8-09)*~~( )

~~***a.***~~ ~~*Application for Mental Health Services, pending document approval;*~~ ~~*(5-8-09)*~~

~~***b.***~~ ~~*Notice of Privacy Practice (HW 0320);*~~ ~~*(5-8-09)*~~

~~***c.***~~ ~~*Mental Health Client Profile;*~~ ~~*(5-8-09)*~~

~~***d.***~~ ~~*Fee Determination Form (HW 0735);*~~ ~~*(5-8-09)*~~

~~***e.***~~ ~~*Adult Health History Form (HW 0713);*~~ ~~*(5-8-09)*~~

~~***f.***~~ ~~*Family Health History Form (HW 0715); and*~~ ~~*(5-8-09)*~~

~~***g.***~~ ~~*Authorization for Disclosure.*~~ ~~*(5-8-09)*~~

102. ELIGIBILITY DETERMINATION.

01. The Department Determines Eligibility for Mental Health Services. The total number of adults who are eligible for mental health services through the Department will be established by the Department. The Department may, in its sole discretion, limit or prioritize mental health services, define eligibility criteria, or establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. (5-8-09)

02. Eligibility Requirements. To be eligible for mental health services through a voluntary application to the Department, the applicant must: (5-8-09)

a. Be an adult; and (5-8-09)

b. Be a resident of the state of Idaho; and (5-8-09)

c. Have a primary diagnosis of SMI or SPMI; or ~~*(5-8-09)*~~( )

d. Be determined eligible under the waiver provisions in Section 400 of these rules. (5-8-09)

03. Court-Ordered Assessment, Treatment, and Services. The court may order the Department to provide assessment, treatment, and services according to Sections 18-212, 19-2524, and 66-329, Idaho Code. ( )

0~~3~~4. Ineligible Conditions. An applicant who has epilepsy, an intellectual disability, dementia, a developmental disability, physical disability, or who is aged or impaired by chronic alcoholism or drug abuse, is not eligible for mental health services, unless, in addition to such condition, he has a primary diagnosis of SMI or SPMI or is determined eligible under the waiver provisions in Section 400 of these rules. ~~*(5-8-09)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

104. ~~*EMERGENCY*~~ CRISIS INTERVENTION SERVICES.
Crisis intervention services are available twenty-four (24) hours per day, seven (7) days per week to adults experiencing a mental health crisis as defined under Section 011 of these rules. Crisis intervention services include evaluation, assessment, intervention, stabilization, and follow-up planning. ( )

01. Determination of the Need for ~~*Emergency*~~ Crisis Intervention Services. ~~*At an applicant's first visit, and prior to making a final determination of eligibility, t*~~The Department will assess an adult experiencing a mental health crisis to determine whether ~~*an applicant needs*~~ services are needed to alleviate ~~*an emergency as defined under Section 010 of these rules*~~ the crisis. ~~*(5-8-09)*~~( )

02. Identification of the ~~*Emergency*~~ Crisis Intervention Services Needed. If ~~*emergency*~~ crisis intervention services are clinically necessary, as determined by the Department, the Department will: ( )

a. ~~*i*~~Identify the ~~*emergency*~~ services ~~*that are consistent with the applicant's needs and the preliminary findings of the intake eligibility assessment or subsequent assessments and:*~~ needed to stabilize the crisis; ~~*(5-8-09)*~~( )

~~*a*~~b. Arrange for the provision of the ~~*emergency*~~ crisis intervention services; and ~~*(5-8-09)*~~( )

~~*b*~~c. Document in the ~~*applicant's*~~ individual's record the ~~*emergency*~~ crisis services that are to be provided to the ~~*applicant*~~ individual. ~~*(5-8-09)*~~( )

03. Immediate Intervention. If the Department determines that a~~*n emergency*~~ mental health crisis exists necessitating immediate intervention, ~~*emergency or*~~ crisis services will be arranged immediately. ~~*(5-8-09)*~~( )

105. NOTICE OF DECISION ON ELIGIBILITY.

01. Notification of Eligibility Determination. Within ~~*ten*~~ fourteen (1~~*0*~~4) ~~*business*~~ calendar days of ~~*a*~~ receiving a ~~*completed intake eligibility assessment*~~ signed application, the Department will notify the applicant or the applicant's designated representative in writing of its eligibility determination. The written notice will include: ~~*(5-8-09)*~~( )

a. The applicant's name and identifying information; (5-8-09)

b. A statement of the decision; (5-8-09)

c. A concise statement of the reasons for the decision; and (5-8-09)

d. The process for pursuing an administrative appeal regarding eligibility determinations. (5-8-09)

02. Right to Accept or Reject Mental Health Services. If the Department determines that an applicant is eligible for mental health services through the Department, an individual has the right to accept or reject mental health services offered by the Department, unless imposed by law or court order. (5-8-09)

03. Reapplication for Mental Health Services. If the Department determines that an applicant is not eligible for mental health services through the Department, the applicant may reapply after six (6) months or at any time upon a showing of a substantial material change in circumstances. (5-8-09)

106. -- 1~~*9*~~19. (RESERVED)

120. CLIENT'S RIGHTS AND RESPONSIBILITIES.
Each individual client receiving adult mental health services through the Department must be notified of his rights and responsibilities prior to the delivery of adult mental health services. ( )

01. Client to Be Informed of Rights and Responsibilities. The Department must inform each client

of his rights and responsibilities. Each client must be given a written statement of client rights and responsibilities, which includes who the client may contact with questions, concerns, or complaints regarding services provided. ( )

02. Content of Client's Rights. The Department must assure and protect the fundamental human, civil, constitutional, and statutory rights of each client. The written client rights statement must, at a minimum, address the following: ( )

a. The right to impartial access to treatment and services, regardless of race, creed, color, religion, gender, national origin, age, or disability; ( )

b. The right to a humane treatment environment that ensures protection from harm, provides privacy to as great a degree as possible with regard to personal needs and promotes respect and dignity for each individual; ( )

c. The right to communication in a language and format understandable to the individual client; ( )

d. The right to be free from mental, physical, sexual, and verbal abuse, as well as neglect and exploitation; ( )

e. The right to receive services within the least restrictive environment possible; ( )

f. The right to an individualized treatment plan, based on assessment of current needs; ( )

g. The right to actively participate in planning for treatment and recovery support services; ( )

h. The right to have access to information contained in one's record, unless access to particular identified items of information is specifically restricted for that individual client for clear treatment reasons in the client's treatment plan; ( )

i. The right to confidentiality of records and the right to be informed of the conditions under which information can be disclosed without the individual client's consent; ( )

j. The right to refuse to take medication unless a court of law has determined the client lacks capacity to make decisions about medications and is an imminent danger to self or others; ( )

k. The right to be free from restraint or seclusion unless there is imminent risk of physical harm to self or others; ( )

l. The right to refuse to participate in any research project without compromising access to program services; ( )

m. The right to exercise rights without reprisal in any form, including the ability to continue services with uncompromised access; ( )

n. The right to have the opportunity to consult with independent specialists or legal counsel, at one's own expense; ( )

o. The right to be informed in advance of the reason(s) for discontinuance of any service provision, and to be involved in planning for the consequences of that event; ( )

p. The right to receive an explanation of the reasons for denial of service. ( )

121. -- 199. (RESERVED)

200. INDIVIDUALIZED TREATMENT PLAN ~~*AND SELECTION OF SERVICE PROVIDERS*~~.

The Department will prepare an individualized treatment plan for every client that addresses the mental health effects on the major life areas and is based on an assessment of the client's mental health needs. (5-8-09)

01. Individualized Treatment Plan. Overall responsibility for development and implementation of the plan will be assigned to a qualified ~~*professional staff member*~~ clinician. A detailed individualized treatment plan will be developed within thirty (30) calendar days ~~*following*~~ from the date of the Department's eligibility determination ~~*that an applicant is eligible for mental health services through the Department. The individualized treatment plan will include the following:*~~ or date of any court order for services. ~~*(5-8-09)*~~( )

~~***a.*** *The services clinically necessary to meet the client's mental health needs;* *(5-8-09)*~~

~~***b.*** *Referrals for needed services not provided under these rules;* *(5-8-09)*~~

~~***c.*** *Goals that the client is to achieve;* *(5-8-09)*~~

~~***d.*** *Specific objectives that relate to the goals, written in measurable terms, with expected achievement dates;* *(5-8-09)*~~

~~***e.*** *Frequency of services;* *(5-8-09)*~~

~~***f.*** *Specific criteria to be met for discharge from treatment; and* *(5-8-09)*~~

~~***g.*** *A specific plan for including the family or significant others.* *(5-8-09)*~~

~~***02. Selection of Providers****. Within five (5) days of completing the individualized treatment plan, the clinical team will identify and select service providers most appropriate to meet the client's mental health needs. The case manager will promptly contact the identified providers to determine their ability to serve the client.* *(5-8-09)*~~

02. Individualized Treatment Plan Requirements. The individualized treatment plan must include the following: ( )

a. The services deemed necessary to meet the client's mental health needs; ( )

b. A prioritized list of problems and needs; ( )

c. Referrals for needed services not provided by the program; ( )

d. Goals that are based on the client's unique strengths, preferences, and needs; ( )

e. Specific objectives that relate to the goals written in simple, measurable, attainable, realistic terms with expected achievement dates; ( )

f. Interventions that describe the kinds of services, frequency of services, activities, supports, and resources the client needs to achieve short-term changes described in the objectives; ( )

g. The goals and objectives must be individualized and must reflect the choices of the client; ( )

h. Documentation of who participated in the development of the individualized treatment plan;( )

i. The client or legal guardian must sign the treatment plan indicating their agreement with service needs identified and their participation in its development. If these signatures indicating participation in the development of the treatment plan are not obtained, then it must be documented in the client's record the reason the signatures were not obtained, including the reason for the client's refusal to sign. A copy of the treatment plan must be given to the client and legal guardian. ( )

ii. The treatment plan must be based on the findings of the assessment process. ( )

i. A specific plan for including the family or significant others; and ( )

j. Discharge criteria and aftercare plans. ( )

03. One Hundred Twenty Day Review. Treatment plans are to be reviewed with the client and updated as needed at least every one hundred twenty (120) days. ( )

a. The treatment plan review must assess and process the status, applicability, obstacles, and possible solutions of the client's goals, objectives, interventions, and timeframes of the treatment plan. ( )

b. Treatment plans for medication management only clients are not subject to a one hundred twenty (120) day review. ( )

04. Treatment Plan Renewals. A new treatment plan will be developed with the client every twelve (12) months. ( )

201. -- 299. (RESERVED)

300. FINANCIAL RESPONSIBILITY FOR MENTAL HEALTH SERVICES.

Individuals receiving adult mental health services through the Department are responsible for paying for the services ~~*provided. Individuals must complete a "Fee Determination Form" prior to the delivery of adult mental health services*~~ they receive. The financial responsibility for each service will be ~~*in accordance with*~~ based on the individual's ability to pay as determined under ~~*Sections 300 and 400 of*~~ IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules~~.~~," Sections 300 and 400. ~~*(5-8-09)*~~( )

301. ADULT MENTAL HEALTH SERVICES.

The Department is the lead agency in establishing and coordinating community supports, services, and treatment for adults eligible for services under Section 102 of these rules. The following services, as defined under Section 010 of these rules are provided by, or arranged for the delivery of by, the behavioral health center in each region: ( )

01. Assessment. ( )

02. Assertive Community Services. ( )

03. Case Management. ( )

04. Crisis Intervention. ( )

05. Medication Management. ( )

06. Psychiatric Services. ( )

07. Outpatient Services. ( )

08. Rehabilitative and Community-Based Services. ( )

09. Residential Care. ( )

30~~1~~2. -- 399. (RESERVED)