

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

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

IDAPA 16.07.17 - Alcohol and Substance Use Disorders Services - Proposed Rule (Docket No.
16-0717-1501);

IDAPA 16.07.20 - Alcohol and Substance Use Disorders Treatment and Recovery Support Services
Facilities and Programs - Proposed Rule (Docket No. 16-0720-1501).

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

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

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



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 15, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.07.17 - Alcohol and Substance Use Disorders Services - Proposed Rule (Docket No. 16-0717-1501)

IDAPA 16.07.20 - Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs - Proposed Rule (Docket No. 16-0720-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.07.17 and 16.07.20.

16.07.17

This rule incorporates treatment and recovery programs from IDAPA 16.07.20, which is being repealed. The services and programs being incorporated include case management, alcohol and drug screening, child care, transportation, life skills, staffed safe and sober housing for adolescents, and staffed safe and sober housing for adults. Negotiated rulemaking was conducted, and there is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Chapter 3, Title 39, Idaho Code.

16.07.20

The proposed rule repeals this chapter of rules, relating to substance use disorders treatment and recovery services, in its entirety. The repealed chapter is being replaced with a new chapter in IDAPA 16.07.15. Negotiated rulemaking was conducted, and there is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Chapter 3, Title 39, Idaho Code, and Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

cc: Department of Health and Welfare
Tamara Prisock

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.17 - ALCOHOL AND SUBSTANCE USE DISORDERS SERVICES

DOCKET NO. 16-0717-1501

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 Title 39, Chapter 3, Idaho Code.

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

ORIGINATING LOCATION -- LIVE MEETING
Thursday, September 17, 2015
10:00 a.m. (MDT) / 9:00 a.m. (PDT) and
2:00 p.m. (MDT) / 1:00 p.m. (PDT)

Idaho Department of Health & Welfare -- Central Office
Conf. Room 3A (3rd Floor)
450 West State Street
Boise, ID 83702

VIDEO CONFERENCING

Region I Office – Coeur d’Alene Main Conference Room 2195 Ironwood Court Coeur d’Alene, ID 83814	Region II Office - Lewiston 1st Floor Conference Room 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 131 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 Conference Room 240 150 Shoup Ave. Idaho Falls, ID 83402	State Hospital South - Blackfoot Admin. Bldg., Classroom A09 700 E. Alice Street Blackfoot, ID 83221	State Hospital North Administration Conf. Rm. 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:

The Department is moving towards an integrated Behavioral Health Program that includes mental health and alcohol and substance use disorders treatment and recovery support services and programs. Changes are being made to this chapter to include adding services and programs from the IDAPA 16.07.20, “Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs,” chapter that is being repealed in this Bulletin under Docket 16-0720-1501.

Substance use disorders recovery services and treatment programs and requirements have been added into this chapter that include: case management, alcohol and drug screening, child care, transportation, life skills, staffed safe and sober housing for adolescents and staffed safe and sober housing for adults.

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 negative fiscal impact on the state

general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 6, 2015, Idaho Administrative Bulletin, **Vol.15-5, pages 62-63** under Docket No. 16-0720-1501. The Department held three meetings around the state and also allowed participants to conference call into the meetings.

INCORPORATION BY REFERENCE: The following documents have been incorporated by reference into these rules:

American Society of Addiction Medicine (ASAM), Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, updated from 2nd Edition, to 3rd Edition, 2013. American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, updated from 4th Edition to 5th Edition. Guidelines for the Accreditation of Opioid Treatment Programs (OTP) have been added.

CONTACT INFORMATION, WEB ADDRESS, 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 September 23, 2015.

DATED this 7th Day of August, 2015.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0717-1501
(Only Those Sections With Amendments Are Shown.)**

000. LEGAL AUTHORITY.

The Idaho Legislature has delegated to the Department and the Board of Health and Welfare, the responsibility ~~to ensure that clinically necessary alcohol and~~ to establish and enforce rules for a comprehensive and coordinated program for the treatment of substance use disorders. ~~services are available throughout the state of Idaho to individuals who meet certain eligibility criteria under the Alcoholism and Intoxication Treatment Act,~~ This authority is found in the Alcoholism and Intoxication Treatment Act, Title 39, Chapter 3, and Section 56-1003, Idaho Code. Under Section 39-311, Idaho Code, the Board of Health and Welfare is authorized to promulgate rules to carry out

~~the purpose and intent of the Alcoholism and Intoxication Treatment Act. Under Section 39-304, Idaho Code, the Department is authorized to establish a comprehensive and coordinated program for the treatment of alcoholics, intoxicated persons, and drug addicts to carry out the purposes and intent of the Alcoholism and Intoxication Treatment Act. Section 56-1003, Idaho Code authorizes the Director of the Department to administer services dealing with the problem of alcoholism and the rehabilitation of persons suffering from alcoholism.~~ (5-8-09)()

001. TITLE, ~~AND~~ SCOPE, ~~AND~~ PURPOSE.

01. Title. The title of these rules is, IDAPA 16.07.17, "~~Alcohol and~~ Substance Use Disorders Services." (5-8-09)()

02. Scope. This chapter ~~defines the scope of voluntary~~ sets the standards for providing substance use disorders services administered under the Department's Division of Behavioral Health, ~~and describes the eligibility criteria, application requirements, individualized service plan requirements, selection of providers, and appeal process under these rules. This chapter is not intended to and does not establish an entitlement for or to receive adult or adolescent alcohol or substance use disorder services, nor is it intended to be applicable to individuals ordered by the court to receive alcohol or substance use disorder services.~~ (7-1-13)()

03. Purpose. The purpose of these rules is to: ()

a. Provide participant eligibility criteria, application requirements, and appeals process for services administered under the Department's Division of Behavioral Health; and ()

b. Establish requirements for quality of substance use disorders treatment, care, and services provided by behavioral health and recovery support services programs. ()

002. WRITTEN INTERPRETATIONS.

~~There are no written interpretations for these rules.~~ In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection as described in Sections 005 and 006 of these rules. (5-8-09)()

003. ADMINISTRATIVE APPEALS.

01. Appeal of Denial Based on Eligibility ~~Criteria~~ Requirements. Administrative appeals from a denial of ~~alcohol and~~ substance use disorder services based on eligibility ~~criteria and priority population requirements~~ are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (5-8-09)()

02. Appeal of Decision Based on Clinical Judgement. ~~All~~ Decisions involving clinical judgment, including the category of services, the particular provider of services, or the duration of services, are reserved to the Department, and are not subject to appeal, administratively or otherwise, in accordance with *Maresh v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). (5-8-09)()

004. INCORPORATION BY REFERENCE.

The following are incorporated by reference in this chapter of rules: (5-8-09)

01. ASAM ~~PPC-2R~~. American Society of Addiction Medicine (ASAM) ~~Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition - Revised (ASAM PPC-2R)~~ Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, Third Edition, 2013. A copy of this manual is available by mail at the American Society of Addiction Medicine, 4601 North Park Ave., Suite 101, Chevy Chase, MD 20815; by telephone and fax, (301) 656-3920 and (301) 656-3815 (fax); or on the internet at <http://www.asam.org>. (5-8-09)()

02. DSM-~~IV-TR~~5. American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, ~~Fourth~~ Fifth Edition, ~~Text Revision~~ (DSM-~~IV-TR~~5) Washington, DC, American Psychiatric Association, 2000. Copies of the manual are available from the American Psychiatric Association, ~~1400 K Street, N.W.~~

~~Washington, DC, 20005. 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~~ 1000 Wilson Boulevard, Suite 1825, Arlington VA 22209-3901.
(5-8-09)()

03. Guidelines for the Accreditation of Opioid Treatment Programs (OTP). Substance Abuse and Mental Health Services Administration, Office of Pharmacological and Alternative Therapies. Attention: OTP Certification Program, Room 2-1086, 1 Choke Cherry Road, Rockville, MD 20857; or on the internet at <http://www.dpt.samhsa.gov/regulations/certification.aspx> for an overview of certification regulations, and <http://www.dpt.samhsa.gov/pdfOTPAccredGuidelines-2007.pdf> for specific guidelines dated July 20, 2007. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEB SITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (5-8-09)

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (5-8-09)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (5-8-09)

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (5-8-09)

05. Internet Web Site. The Department's internet website at <http://www.healthandwelfare.idaho.gov>. (5-8-09)

06. Substance Use Disorders Services Website. The Substance Use Disorders Services Internet website at <http://www.substanceabuse.idaho.gov>. ()

(BREAK IN CONTINUITY OF SECTIONS)

007. -- ~~008~~. (RESERVED)

~~009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.~~

~~**01. Compliance With Department Criminal History and Background Check.** All owners, operators, employees, transfers, reinstated former employees, student interns, contractors, and volunteers who provide direct care or services, or whose position requires regular contact with clients, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-14)~~

~~**02. Availability to Work or Provide Service.** An individual listed in Subsection 009.01 of these rules is available to work on a provisional basis at the discretion of the employer or agency once the individual has submitted his criminal history and background check application, it has been signed and notarized, reviewed by the employer or agency, and no disqualifying crimes or relevant records are disclosed on the application. An individual must be fingerprinted within twenty-one (21) days of submitting his criminal history and background check application. (7-1-14)~~

~~**a.** An individual is allowed to work or have access to clients only under supervision until the criminal history and background check is completed. (7-1-14)~~

~~**b.** An individual, who does not receive a criminal history and background check clearance or a waiver granted under the provisions in this chapter, may not provide direct care or services, or serve in a position that requires regular contact with clients in an alcohol and substance use disorders treatment and recovery support~~

~~services program.~~

~~(7-1-14)~~

~~03. **Waiver of Criminal History and Background Check Denial.** An individual who receives a conditional or unconditional denial for a criminal history and background check, may apply for a waiver to provide direct care or services, or serve in a position that requires regular contact with clients in an alcohol and substance use disorders treatment and recovery support services program. A waiver may be granted on a case-by-case basis upon administrative review by the Department of any underlying facts and circumstances in each individual case. A waiver will not be granted for crimes listed in Subsection 009.04 of this rule.~~

~~(7-1-14)~~

~~04. **No Waiver for Certain Designated Crimes.** No waiver will be granted by the Department for any of the following designated crimes or substantially conforming foreign criminal violations:~~

~~(7-1-14)~~

- ~~a. **Forcible sexual penetration by use of a foreign object,** as defined in Section 18-6608, Idaho Code;~~
- ~~b. **Incest,** as defined in Section 18-6602, Idaho Code;~~
- ~~c. **Lewd conduct with a minor,** as defined in Section 18-1508, Idaho Code;~~
- ~~d. **Murder in any degree or assault with intent to commit murder,** as defined in Sections 18-4001, 18-4003, and 18-4015, Idaho Code;~~
- ~~e. **Possession of sexually exploitative material,** as defined in Section 18-1507A, Idaho Code;~~
- ~~f. **Rape,** as defined in Section 18-6101, Idaho Code;~~
- ~~g. **Sale or barter of a child,** as defined in Section 18-1511, Idaho Code;~~
- ~~h. **Sexual abuse or exploitation of a child,** as defined in Sections 18-1506 and 18-1507, Idaho Code;~~
- ~~i. **Enticing of children,** as defined in Sections 18-1509 and 18-1509A, Idaho Code;~~
- ~~j. **Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute,** as defined in Sections 18-5609 and 18-5611, Idaho Code;~~
- ~~k. **Any felony punishable by death or life imprisonment; or**~~
- ~~l. **Attempt, conspiracy, accessory after the fact, or aiding and abetting,** as defined in Sections 18-205, 18-306, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes.~~

~~(7-1-14)~~

~~(7-1-14)~~

~~05. **Administrative Review.** An administrative review for a waiver may consist of a review of documents and supplemental information provided by the individual, a telephone interview, an in-person interview, or any other review deemed necessary by the Department. The Department may appoint a subcommittee to conduct administrative reviews provided for under Subsections 009.03 through 009.12 of this rule.~~

~~(7-1-14)~~

~~06. **Written Request for Administrative Review and Waiver.** A written request for a waiver must be sent to the Administrative Procedures Section, 450 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0026 within fourteen (14) calendar days from the date of the issuance of a denial from the Department's Criminal History Unit. The fourteen (14) day period for submitting a request for a waiver may be extended by the Department for good cause.~~

~~(7-1-14)~~

~~07. **Scheduling of Administrative Review.** Upon receipt of a written request for a waiver, the Department will determine the type of administrative review to be held, and conduct the review within thirty (30) business days from the date of receipt. When an in-person review is appropriate, the Department will provide the individual at least seven (7) days notice of the review date.~~

~~(7-1-14)~~

~~08. **Factors Considered During Administrative Review.** During the administrative review, the following factors may be considered:~~ (7-1-14)

- ~~a. The severity or nature of the crimes or other findings;~~ (7-1-14)
- ~~b. The period of time since the incidents occurred;~~ (7-1-14)
- ~~c. The number and pattern of incidents being reviewed;~~ (7-1-14)
- ~~d. Circumstances surrounding the incidents that would help determine the risk of repetition;~~ (7-1-14)
- ~~e. The relationship between the incidents and the position sought;~~ (7-1-14)
- ~~f. Activities since the incidents, such as continuous employment, education, participation in treatment, completion of a problem-solving court or other formal offender rehabilitation, payment of restitution, or any other factors that may be evidence of rehabilitation.~~ (7-1-14)
- ~~g. A pardon that was granted by the Governor or the President;~~ (7-1-14)
- ~~h. The falsification or omission of information on the self declaration form and other supplemental forms submitted; and~~ (7-1-14)
- ~~i. Any other factor deemed relevant to the review.~~ (7-1-14)

~~09. **Administrative Review Decision.** A notice of decision will be issued by the Department within fifteen (15) business days of completion of the administrative review.~~ (7-1-14)

~~10. **Decision to Grant Waiver.** The Department's decision to grant a waiver does not set a precedent for subsequent requests by an individual for a waiver. A waiver granted under this chapter is not a criminal history and background check clearance, and is only applicable to services and programs governed under this chapter. It does not apply to other Department programs requiring clearance of a criminal history and background check.~~ (7-1-14)

~~11. **Revocation of Waiver.** The Department may chose to revoke a waiver at its discretion for circumstances that it identifies as a risk to client health and safety, at any time.~~ (7-1-14)

~~12. **Waiver Decisions Are Not Subject to Review or Appeal.** The decision or actions of the Department concerning a waiver is not subject to review or appeal, administratively or otherwise.~~ (7-1-14)

~~13. **Employer Responsibilities.** A waiver granted by the Department is not a determination of suitability for employment. The employer is responsible for reviewing the results of a criminal history and background check even when a clearance is issued or a waiver is granted. Making a determination as to the ability or risk of the individual to provide direct care services or to serve in a position that requires regular contact with children and vulnerable adults is the responsibility of the employer.~~ (7-1-14)

010. DEFINITIONS - A THROUGH F.

For the purposes of these rules, the following terms are used as defined below: (5-8-09)

01. Adolescent. An individual ~~between the ages of fourteen (14) and~~ under the age of eighteen (18) ~~years.~~ (5-8-09)()

02. Adult. An individual eighteen (18) years or older. (5-8-09)

03. Applicant. An adult or adolescent individual who is seeking alcohol or substance use disorders services through the Department who has completed or had completed on his behalf an application for alcohol or substance use disorder services. (5-8-09)

04. ASAM ~~PPC-2R~~. Refers to the ~~second~~ third edition ~~revised,~~ manual of the patient placement criteria

for the treatment of substance-related disorders, published by the American Society of Addiction Medicine.

(5-8-09)()

~~05. **Assessment and Referral Services.** A substance use disorders program provides these services in order to treat, provide services, or refer individuals. An assessment is designed to gather and analyze information regarding a client's current substance use disorder behavioral, social, medical, and treatment history. The purpose of the assessment is to provide sufficient information for problem identification and, if appropriate, substance use disorder related treatment or referral.~~ (7-1-13)

~~06. **Child.** An individual under the age of fourteen (14) years.~~ (7-1-13)

~~07. **Client.** A person receiving treatment for an alcohol or substance use disorder. The term "client" is synonymous with the terms: patient, resident, consumer, or recipient of treatment.~~ (5-8-09)

05. **Clinical Assessment.** The gathering of historical and current clinical information through a clinical interview and from other available resources to identify an individual's strengths, weaknesses, problems, needs, and determine priorities so that a service plan can be developed. ()

~~086. **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 alcohol~~ and substance use disorders service needs.~~ (5-8-09)()

~~097. **Clinical Necessity.** ~~Alcohol or s~~Substance use disorder services are deemed clinically necessary when the Department, in the exercise of clinical judgment, would recommend services to an applicant for the purpose of evaluating, diagnosing, or treating ~~alcohol or~~ substance use disorders 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 ~~alcohol or~~ substance use disorder; and~~ (5-8-09)()

~~b. Not primarily for the convenience of the applicant or service provider and 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 ~~alcohol or~~ substance use disorder.~~ (5-8-09)()

~~10. **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 assessment and subsequent treatment is comprehensive and meets the needs of the proposed client.~~ (5-8-09)

~~11. **Clinically Managed Low Intensity Residential Treatment.** Is a program that offers at least five (5) hours per week of outpatient or intensive outpatient treatment services along with a structured recovery environment, staffed twenty-four (24) hours per day, which provides sufficient stability to prevent or minimize relapse or continued use. This level of care is also known as a Halfway House.~~ (5-8-09)

~~12. **Clinically Managed Medium Intensity Residential Treatment.** Frequently referred to as residential care, programs provide a structured, twenty-four (24) hour intensive residential program for clients who require treatment services in a highly structured setting. This type of program is appropriate for clients who need concentrated, therapeutic services prior to community residence. Community reintegration of residents in this level of care requires case management activities directed toward networking clients into community based recovery support services such as housing, vocational services or transportation assistance so that the client is able to attend mutual/self-help meetings or vocational activities after discharge.~~ (5-8-09)

~~13. **Comprehensive Assessment.** Those procedures by which a substance use disorder clinician evaluates an individual's strengths, weaknesses, problems, needs, and determines priorities so that a service plan can be developed.~~ (7-1-13)

~~14. **Contracted Intermediary.** A third party contractor of the Department who handles direct~~

~~contracting with network providers for treatment services to include network management, claims payment, data gathering per Federal and State requirements and census management. (5-8-09)~~

~~1508. Department. The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department its designee. (5-8-09)()~~

~~16. Early Intervention Services. Services that are designed to explore and address problems or risk factors that appear to be related to substance use. (7-1-13)~~

~~17. Emergency. An emergency exists if an adult or adolescent individual is gravely disabled due to mental illness or substance abuse or dependence 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)~~

~~09. Eligibility Screening. The collection of data, analysis, and review, which the Department uses to screen and determine whether an applicant is eligible for adult or adolescent substance use disorder services available through the Department. ()~~

~~180. 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)~~

011. DEFINITIONS - G THROUGH Z.

For the purposes of these rules, the following terms are used as defined below: (7-1-14)

~~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)~~

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

~~01. Idaho Board of Alcohol/Drug Counselor Certification, Inc. (IBADCC). A board affiliated with the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC). The IBADCC is the certifying entity that oversees credentialing of Idaho Student of Addiction Studies (ISAS), Certified Alcohol/Drug Counselors (CADC), Advanced Certified Alcohol/Drug Counselors (ACADC), Certified Clinical Supervisors (CCS), and Certified Prevention Specialists (CPS) in the state of Idaho. The IBADCC may be contacted at: PO Box 1548, Meridian, ID 83680; phone (208) 468-8802; Fax: (208) 466-7693; e-mail: IBADCC@ibadcc.org; <http://ibadcc.org/>. ()~~

~~02. Idaho Student of Addiction Studies (ISAS). An entry-level certification for substance use disorder treatment granted by the Idaho Board of Alcohol/Drug Counselor Certification. ()~~

~~03. Individualized Service Plan. A written action plan based on an intake eligibility screening and full clinical 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. (7-1-13)()~~

~~04. Intake Eligibility Screening. The collection of data, analysis, and review, which the Department, or its designee, uses to screen and determine whether an applicant is eligible for adult or adolescent alcohol or substance use disorder services available through the Department. (5-8-09)~~

~~054.~~ **Intensive Outpatient Services.** ~~An organized service delivered by addiction professionals or addiction credentialed clinicians, which provides a planned regimen of treatment~~ Educational classes and individual or group counseling consisting of regularly scheduled sessions within a structured program, for a minimum of nine (9) hours of treatment per week for adults and six (6) hours of treatment per week for adolescents. ~~(5-8-09)()~~

~~06.~~ **Medically Monitored Detoxification.** ~~Means medically supervised twenty four (24) hour care for patients who require hospitalization for treatment of acute alcohol intoxication or withdrawal, from one (1) or more other substances of abuse, and other medical conditions which together warrant treatment in this type of setting. Length of stay varies depending on the severity of the disease and withdrawal symptoms.~~ (7-1-13)

~~07.~~ **Medically Monitored Inpatient Treatment.** ~~Medically supervised twenty four (24) hour care for patients requiring hospitalization and treatment services. Medically monitored inpatient treatment provides treatment services and access to full range of services offered by the hospital.~~ (7-1-13)

05. Medication Assisted Treatment (MAT). MAT is the use of medications, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders. ()

086. **Network Treatment Provider.** A treatment provider who has facility approval through the Department and is contracted with the Department's Management Service Contractor. A list of network providers can be found at the Department's website given in Section 005 of these rules. The list is also available by calling these telephone numbers: 1 (800) 922-3406; or dialing 211. ~~(5-8-09)()~~

07. Northwest Indian Alcohol/Drug Specialist Certification Board. A board that represents the Native American Chemical Dependency programs in the state of Washington, Oregon, and Idaho and offers certification for chemical dependency counselors. Information regarding certification standards may be obtained at the website at <http://www.nwiadcb.com/NWIADCB/index.html>. ()

~~098.~~ **Opioid Replacement Outpatient Services Treatment Program.** This service program is specifically offered to a client participant who has opioids as his substance use disorder. Services are offered under the guidelines of a federally accredited program. ~~(7-1-13)()~~

~~109.~~ **Outpatient Services.** ~~An organized non-residential service, delivered in a variety of settings, in which addiction treatment personnel provide professionally directed evaluation and treatment for alcohol and substance use disorders.~~ Educational classes and individual or group counseling consisting of regularly scheduled sessions within a structured program for up to eight (8) hours of treatment per week for adults and five (5) hours of treatment per week for adolescents. ~~(5-8-09)()~~

~~110.~~ **Priority Population.** Priority populations are populations who receive services ahead of other persons and are determined yearly by the Department based on federal regulations. A current list of the priority population is available from the Department. ~~(7-1-13)()~~

~~121.~~ **Recovery Support Services.** Non clinical services designed to initiate, support, and enhance recovery. These services may include: safe and sober housing that is staffed; transportation; child care; family education; life skills education; marriage education; drug testing; peer to peer mentoring; and case management. ~~(5-8-09)()~~

~~13.~~ **Residential Social Detoxification.** ~~Means a medically supported twenty four (24) hour, social rehabilitation residential program which provides physical care, education, and counseling as appropriate for the client's health and safety during his process of physical withdrawal from acute alcohol intoxication or withdrawal, or from one or more other substances of abuse. Social detoxification provides access into care and treatment of alcohol or substance use disorders through monitored withdrawal, evaluation of present or potential alcohol or substance dependency and other physical ailments, and intervention into the progression of the disease through timely utilization of resources. Length of stay in a social detoxification program varies from three (3) to seven (7) days depending on the severity of the disease and withdrawal symptoms.~~ ~~(5-8-09)~~

~~14.~~ **Sliding Fee Scale.** ~~A scale used to determine an individual's cost for services based on Federal~~

~~Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules."~~ (5-8-09)

~~15. **Substance Dependence.** Substance dependence is marked by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues to use alcohol or other drugs despite significant related problems. The cluster of symptoms can include: tolerance; withdrawal or use of a substance in larger amounts or over a longer period of time than intended; persistent desire or unsuccessful efforts to cut down or control substance use; a great deal of time spent in activities related to obtaining or using substances or to recover from their effects; relinquishing important social, occupational or recreational activities because of substance use; and continuing alcohol or drug use despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been cause or exacerbated by such use as defined in the DSM-IV-TR.~~ (5-8-09)

12. **Residential Treatment Services.** A planned and structured regimen of treatment provided in a 24-hour residential setting. Residential programs serve individuals who, because of function limitations need safe and stable living environments and 24-hour care. ()

~~163. **Substance-Related Disorders.** Substance-related disorders include disorders related to the taking of alcohol or another addictive drug ~~of abuse~~, to the side effects of a medication, and to toxin exposures. They ~~are~~ divided into two (2) groups: the include Substance Use Disorders, and ~~the S~~ubstance-Induced intoxication, substance withdrawal, and substance-induced Disorders as defined in the DSM-~~IV-TR~~5. (5-8-09)()~~

~~174. **Substance Use Disorder.** Includes Substance Dependence and Substance Abuse, according to the DSM-IV-TR. Substance Use Disorders are one (1) of two (2) subgroups of the broader diagnostic category of Substance-Related Disorders. A substance use disorder is evidenced by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using a substance despite significant substance-related problems. According to the DSM-5, diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to use of the substance.~~ (5-8-09)()

~~18. **Substantial Material Change in Circumstances.** A substantial and material change in circumstances which renders the Department's decision denying alcohol and substance use disorders services arbitrary and capricious.~~ (5-8-09)

15. **Withdrawal Management.** Services necessary to monitor and manage the process of withdrawing a person from a specific psychoactive substance in a safe and effective manner. ()

012. -- 099. (RESERVED)

PARTICIPANT ELIGIBILITY (Sections 100 - 199)

100. ACCESSING ~~ALCOHOL AND~~ SUBSTANCE USE DISORDERS SERVICES.

~~The Department's A~~adult and adolescent ~~alcohol and~~ substance use disorders services may be accessed by eligible applicants ~~through~~ completing an application for services and ~~request for an intake~~ eligibility screening. (5-8-09)()

101. INTAKE ELIGIBILITY SCREENING AND ~~FULL~~ CLINICAL ASSESSMENT.

01. Intake Eligibility Screening. A screening for eligibility ~~for alcohol and~~ substance use disorders services through the Department is based on ~~meeting priority population and ASAM PPC-2R criteria as incorporated by reference in Section 004~~ the eligibility requirements under Section 102 of these rules. ~~If~~ When an applicant meets ~~this~~ eligibility screening criteria he may be eligible for ~~alcohol and~~ substance use disorders services through the Department. ~~An~~ applicants not meeting ~~this~~ eligibility screening criteria will be referred to other appropriate community services. ~~All~~ Each applicants ~~are~~ is required to complete an Application for ~~Alcohol and~~ Substance Use Disorders Services ~~either over the telephone or in person at a network treatment provider site.~~ ~~If~~ When an applicant refuses to complete the application, the Department reserves the right to discontinue the screening process for eligibility. The ~~intake~~ eligibility screening must be directly related to the applicant's ~~substance dependence or~~ substance-related disorder and level of functioning, and will include: (5-8-09)()

- a. Application for ~~Alcohol or~~ Substance Use Disorders Services, ~~pending document approval;~~ (5-8-09)()
- b. Notice of Privacy Practice; ~~and~~ (5-8-09)()
- ~~c. Fee Determination; and~~ (5-8-09)
- ~~d.~~ Authorization for Disclosure. (5-8-09)

02. **Full Clinical Assessment.** ~~If~~ **When** the applicant is found eligible for ~~alcohol and~~ a substance use disorders services **assessment** after completion of the ~~intake~~ eligibility screening, the applicant will ~~either be placed on a waiting list to receive a full clinical assessment or will have an appointment made~~ **be authorized** to receive a **full** clinical assessment with a Department's network treatment provider. (5-8-09)()

102. ELIGIBILITY DETERMINATION.

01. **Determination of Eligibility for ~~Alcohol and~~ Substance Use Disorders Services.** ~~The total number of adults and adolescents who are eligible for alcohol or substance use disorders services through the Department will be established by the Department.~~ The Department may limit or prioritize adult and adolescent ~~alcohol or~~ substance use disorder services, **impose income limits**, define eligibility criteria, and 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. (7-1-13)()

02. **Eligibility Requirements.** To be eligible for ~~alcohol and~~ substance use disorders services through a voluntary application to the Department, the applicant must: (5-8-09)()

- a. Be an adult or adolescent with family income at or below two hundred percent (200%) of federal poverty guidelines; (5-8-09)
- b. Be a resident of the state of Idaho; (5-8-09)
- c. Be a member of ~~the~~ a priority population; (5-8-09)()
- d. Meet diagnostic criteria for ~~substance dependence, or~~ a substance-related disorder as described in the DSM-~~IV-TR~~5; and (5-8-09)()
- e. Meet specifications in each of the ASAM ~~PPC 2R~~ dimensions required for the recommended level of care. (5-8-09)()

~~03. Admission to Treatment Program Requirements. In order to be admitted into an adult or adolescent alcohol or substance use disorders treatment program, there must be clinical evidence that provides a reasonable expectation that the applicant will benefit from the alcohol or substance use disorder services. (5-8-09)~~

~~04. Ineligible Conditions. An applicant who has epilepsy, an intellectual disability, dementia, a developmental disability, physical disability, mental illness, or who is aged, is not eligible for alcohol and substance use disorders services, unless, in addition to such condition, they meet primary diagnostic criteria for substance abuse, substance dependence, or a substance related disorder as described in the DSM-IV-TR and the specification in each of the ASAM PPC 2R dimensions required for the recommended level of care. (5-8-09)~~

103. NOTICE OF CHANGES IN ELIGIBILITY FOR ~~ALCOHOL AND~~ SUBSTANCE USE DISORDERS SERVICES.

The Department may, upon ten (10) days' written notice, reduce, limit, suspend, or terminate eligibility for ~~alcohol or~~ substance use disorders services. (5-8-09)()

104. NOTICE OF DECISION ON ELIGIBILITY.

01. Notification of Eligibility Determination. Within two (2) business days of ~~a~~ receiving a completed ~~intake~~ eligibility screening ~~and risk or~~ assessment ~~for outpatient services, and one (1) business day for social detoxification and residential treatment services, or both,~~ the Department, ~~or its contracted intermediary,~~ will notify the applicant or the applicant's designated representative ~~in writing~~ of its eligibility determination. When the applicant is not eligible for services through the Department, the applicant or the applicant's designated representative will be notified in writing. 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 ~~Alcohol and~~ Substance Use Disorders Services. ~~If~~ When the Department, ~~or its contracted intermediary,~~ determines that an applicant is eligible for ~~alcohol and~~ substance use disorders services through the Department, an individual has the right to accept or reject ~~alcohol and~~ substance use disorders services offered by the Department, unless imposed by law or court order. (5-8-09)()

03. Reapplication for ~~Alcohol and~~ Substance Use Disorders Services. If the Department determines that an applicant is not eligible for ~~alcohol and~~ substance use disorders 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. ~~Also, if the individual screened is found not to meet admission criteria, but is in need of other types of services, the Department, or its contracted intermediary, will refer the individual to an agency or department which provides the appropriate services needed.~~ (5-8-09)()

1065. -- 1419. (RESERVED)

120. FINANCIAL RESPONSIBILITY FOR SUBSTANCE USE DISORDERS SERVICES.

An individual receiving substance use disorders services through the Department is responsible for paying for the services received. The financial responsibility for each service is based on the individual's ability to pay as determined in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." ()

121. -- 149. (RESERVED)

150. SELECTION OF SERVICE PROVIDERS.

A participant who is eligible for substance use disorders services administered by the Department can choose a substance use disorders service provider from the approved list of Network Treatment Providers for services needed. Treatment services must be within the recommended level of care according to ASAM based on the individual's needs identified in the assessment and resulting individualized service plan. A participant within the criminal justice system may have a limited number of providers from which to choose. ()

151. -- 199. (RESERVED)

~~200. INDIVIDUALIZED SERVICE PLAN, SELECTION OF SERVICE PROVIDERS AND AVAILABLE TREATMENT SERVICES.~~

~~The Department's contracted provider will prepare for every client an individualized service plan that addresses the alcohol or substance disorders health affects on the client's major life areas. The service plan will be based on a comprehensive assessment.~~ (7-1-13)

~~**01. Individualized Service Plan.** The responsibility for development and implementation of the plan will be assigned to a qualified staff member. A service plan will be developed within seventy two (72) hours following admission to an inpatient or residential facility and within thirty (30) days of the completion or receipt of a state-approved assessment in an outpatient setting. The individualized service plan will include the following: (7-1-13)~~

- ~~a. The services deemed clinically necessary to facilitate the client's alcohol and substance use~~

- ~~disorders recovery;~~ (7-1-13)
- ~~b. Referrals for needed services not provided by the program, including referrals for recovery support services;~~ (7-1-13)
- ~~c. Goals to achieve a recovery-oriented lifestyle;~~ (7-1-13)
- ~~d. Objectives that relate to the goals, written in measurable terms, with targeted expected achievement dates;~~ (7-1-13)
- ~~e. Service Frequency;~~ (7-1-13)
- ~~f. Criteria to be met for discharge from services;~~ (7-1-13)
- ~~g. A plan for services to be provided after discharge;~~ (7-1-13)
- ~~h. A plan for including the family or other social supports; and~~ (7-1-13)
- ~~i. Service plan goals and objectives that reflect the service needs identified on the assessment.~~ (7-1-13)
- ~~02. Selection of Providers. The client can choose from among the array of substance use disorders treatment providers approved to provide services. The services must be within the recommended level of care according to ASAM PPC-2R and based on needs identified in the comprehensive assessment and resultant individualized service plan. The client does not have the option of choosing his treatment provider if he is within the criminal justice system and specific providers have been identified for the client.~~ (7-1-13)
- ~~03. Treatment Services Available. Available alcohol or substance use disorders treatment services, as defined in Section 010 of these rules, include:~~ (5-8-09)
- ~~a. Assessment and Referral services;~~ (7-1-13)
- ~~b. Residential social detoxification;~~ (7-1-13)
- ~~c. Medically monitored inpatient treatment;~~ (7-1-13)
- ~~d. Medically monitored detoxification;~~ (7-1-13)
- ~~e. Clinically managed medium-intensity residential treatment;~~ (7-1-13)
- ~~f. Clinically managed low-intensity residential treatment;~~ (5-8-09)
- ~~g. Level I—Outpatient, and Level II.I Intensive Outpatient;~~ (7-1-13)
- ~~h. Opioid treatment program;~~ (7-1-13)
- ~~i. Recovery support services; and~~ (7-1-13)
- ~~j. Early intervention services.~~ (7-1-13)
- ~~04. Treatment Services Not Available. Alcohol or substance use disorder treatment services, do not include:~~ (5-8-09)
- ~~a. Experimental or investigational procedures;~~ (5-8-09)
- ~~b. Technologies and related services;~~ (5-8-09)

- ~~e. Electroconvulsive therapy; (5-8-09)~~
- ~~d. Treatment or services for epilepsy, an intellectual disability, dementia, a developmental disability, physical disability, aged or the infirm; or (5-8-09)~~
- ~~e. Any other services which are primarily recreational or diversional in nature. (5-8-09)~~

~~201.—299. (RESERVED)~~

~~300. CHARGES FOR ALCOHOL AND SUBSTANCE USE DISORDERS SERVICES.~~

~~Individuals receiving alcohol and substance use disorders services through the Department are responsible for paying for the services provided. Individuals must complete a "Fee Determination Form," in writing or by telephone, prior to the delivery of alcohol and substance use disorders services. The amount charged for each service will be in accordance with the individual's ability to pay as determined in: IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Section 500. (5-8-09)~~

SUBSTANCE USE DISORDER SERVICES
(Sections 200 - 600)

200. QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONAL PERSONNEL REQUIRED.

Each behavioral health program providing substance use disorders services must employ the number and variety of staff needed to provide the services and treatments offered by the program as a multidisciplinary team. The program must employ at least one (1) qualified substance use disorders professional for each behavioral health program location. ()

01. Qualified Substance Use Disorders Professional. A qualified substance use disorders professional includes individuals with the following qualifications: ()

- a. Idaho Board of Alcohol/Drug Counselor Certification - Certified Alcohol/Drug Counselor; ()
- b. Idaho Board of Alcohol/Drug Counselor Certification - Advanced Certified Alcohol/Drug Counselor; ()
- c. Northwest Indian Alcohol/Drug Specialist Certification - Counselor II or Counselor III; ()
- d. National Board for Certified Counselors (NBCC) - Master Addictions Counselor (MAC); ()
- e. "Licensed Clinical Social Worker" (LCSW) or a "Licensed Masters Social Worker" (LMSW) licensed under Title 54, Chapter 32, Idaho Code; ()
- f. "Marriage and Family Therapist" or "Associate Marriage and Family Therapist," licensed under Title 54, Chapter 34, Idaho Code; ()
- g. "Nurse Practitioner" licensed under Title 54, Chapter 14, Idaho Code; ()
- h. "Clinical Nurse Specialist" licensed under Title 54, Chapter 14, Idaho Code; ()
- i. "Physician Assistant" licensed under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants"; ()
- j. "Licensed Professional Counselor" (LPC) or a "Licensed Clinical Professional Counselor" (LCPC) licensed under Title 54, Chapter 34, Idaho Code; ()
- k. "Psychologist," or a "Psychologist Extender" licensed under Title 54, Chapter 23, Idaho Code; ()

l. “Physician” licensed under Title 54, Chapter 18, Idaho Code; and ()

m. “Professional Nurse” RN licensed under Title 54, Chapter 14, Idaho Code. ()

02. **Qualified Substance Use Disorders Professional Prior to May 1, 2010.** When an individual was recognized by the Department as a qualified professional in a substance use disorders services program prior to May 1, 2010, and met the requirements at that time, he will continue to be recognized by the Department as a qualified substance use disorders professional. ()

201. -- 209. (RESERVED)

210. QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONAL TRAINEE.

Each qualified substance use disorders professional trainee practicing in the provision of substance use disorders services must meet the requirements in these rules. ()

01. **Informed of Qualified Substance Use Disorders Professional Trainee Providing Treatment.** All behavioral health program staff, participants, their families, or guardians must be informed when a qualified substance use disorders professional trainee is providing treatment services to participants. ()

02. **Work Qualifications for Qualified Substance Use Disorders Professional Trainee.** A qualified substance use disorders professional trainee must meet one (1) of the following qualification to begin work: ()

a. Idaho Student in Addiction Studies (ISAS) certification; ()

b. Formal documentation as a Northwest Indian Alcohol/Drug Specialist Counselor I; or ()

c. Formal documentation of current enrollment in a program for qualifications in Section 200 of these rules. ()

03 **Continue as Qualified Substance Use Disorders Professional Trainee.** An individual who has completed a program listed in Section 200 of these rules and is awaiting licensure can continue as a qualified substance use disorders professional trainee at the same agency for a period of six (6) months from the date of program completion. ()

211. -- 299. (RESERVED)

300. SERVICES FOR ADOLESCENTS.

Behavioral health programs providing substance use disorders treatment to adolescents must comply with the following requirements: ()

01. **Separate Services From Adults.** Each program providing adolescent program services must provide the services separate from adult program services. The program must ensure the separation of adolescent participants from adult participants except as required in Subsections 300.03 and 300.04 of this rule. ()

02. **Residential Care as an Alternative to Parental Care.** Any program that provides care, control, supervision, or maintenance of adolescents for twenty-four (24) hours per day as an alternative to parental care must meet the following criteria: ()

a. Be licensed under the “Child Care Licensing Act,” Title 39, Chapter 12, Idaho Code, according to IDAPA 16.06.02, “Rules Governing Standards for Child Care Licensing”; or ()

b. Be certified by the Department of Juvenile Corrections according to IDAPA 05.01.02, “Rules and Standards for Secure Juvenile Detention Centers.” ()

03. **Continued Care of an Eighteen-Year-Old.** An adolescent who turns the age of eighteen (18), and is receiving outpatient or intensive outpatient treatment in a state-approved behavioral health program, may remain in the program under continued care described in Subsection 300.03 of this rule. The individual may remain in the

program for: ()

a. Up to ninety (90) days after his eighteenth birthday; or ()

b. Until the close of the current school year for an individual attending school. ()

04. Documentation Requirements for Continued Care. Prior to accepting an individual into continued care, the program must assure and document the following: ()

a. A signed voluntary agreement to remain in the program or a copy of a court order authorizing continued placement after the individual's eighteenth birthday. ()

b. Clinical staffing for appropriateness of continued care with clinical documentation; ()

c. Verification the individual in continued care was in the care of the program prior to his eighteenth birthday. ()

d. Verification that the individual needs to remain in continued care in order to complete treatment, education, or other similar needs. ()

05. Licensed Hospital Facilities. Facilities licensed as hospitals under Title 39, Chapter 13, Idaho Code, are exempt from the requirements in Subsections 300.01 through 300.04 of this rule. ()

301. -- 349. (RESERVED)

350. RECOVERY SUPPORT SERVICES.

Each program must meet the minimum requirements in these rules to provide recovery support services for the following services. ()

01. Case Management. ()

02. Alcohol and Drug Screening. ()

03. Child Care. ()

04. Transportation. ()

05. Life Skills. ()

06. Staffed Safe and Sober Housing for Adolescents. ()

07. Staffed Safe and Sober Housing for Adults. ()

351. -- 354. (RESERVED)

355. CASE MANAGEMENT SERVICES.

Each program providing case management services must comply with the requirements in this rule. ()

01. No Duplication of Services. Case management services must not duplicate services currently provided under another program. ()

02. Based on Assessment. Case management services must be based on an assessment of participant's needs. ()

03. Required Service Plan. Case management services must be included on the participant's service plan. ()

356. -- 359. (RESERVED)

360. ALCOHOL AND DRUG SCREENING.

Each program providing alcohol and drug screenings must comply with the requirements in this rule. ()

01. Drug Testing Policies and Procedures. The program must have policies and procedures regarding the collection, handling, testing, and reporting of drug-testing specimens. Policies and procedures must include elements contributing to the reliability and validity of the screening and testing process. ()

a. Direct observation of specimen collection; ()

b. Verification temperature and measurement of creatinine levels in urine samples to determine the extent of water loading; ()

c. Specific, detailed, written procedures regarding all aspects of specimen collection, specimen evaluation, and result reporting; ()

d. A documented chain of custody for each specimen collected; ()

e. Quality control and quality assurance procedures for ensuring the integrity of the process; and ()

f. Procedures for verifying accuracy when drug test results are contested. ()

02. Release of Results. The program must have a policy and procedures for releasing the results of an alcohol and drug screening. ()

03. On-site Testing. A program performing on-site testing must use alcohol and drug screening tests approved by the U.S. Food and Drug Administration. ()

04. Laboratory Used for Testing. Each laboratory used for lab-based confirmation or lab-based testing must meet the requirements in and be approved under IDAPA 16.02.06, "Rules Governing Quality Assurance for Idaho Clinical Laboratories." ()

361. -- 364. (RESERVED)

365. CHILD CARE SERVICES.

Each program providing child care services must comply with the requirements in this rule. ()

01. Documentation of Child Care. A program must maintain documentation of current daycare license or written documentation that child care is provided while parent is on-site. ()

02. Policies and Procedures for Child Care Services. The program must have policies and procedures that ensure the well-being and safety of children receiving child care services. ()

366. -- 369. (RESERVED)

370. TRANSPORTATION SERVICES.

Each program providing transportation services must comply with the requirements in this rule. ()

01. Documentation of Driver's License. A program that provides transportation to participants must maintain documentation of a valid driver's license for each individual who provides the service. ()

02. Transportation Vehicles and Drivers. A program must adhere to all state and federal laws, rules, and regulations applicable to drivers and types of vehicles used. ()

03. Insurance Liability Coverage. A behavioral health provider must carry at least the minimum

insurance coverage required by Idaho law for each vehicle used. When the program permits an employee to transport participants in an employee's personal vehicle, the program must ensure that insurance coverage is carried to cover those services. ()

04. Direct Routes. A program must provide transportation by the most direct route practical. ()

05. Safety of Participants. A program must ensure the safety and well-being of all participants transported. This includes maintaining and operating vehicles in a manner that ensures protection of the health and safety of each participant transported. The program must meet the following requirements: ()

a. Prohibit the driver from using a cell phone while transporting a participant; ()

b. Prohibit smoking in the vehicle; ()

c. All vehicles must be equipped with a first aid kit and fire extinguisher; ()

d. All vehicles must be equipped with appropriate safety restraints; and ()

e. All vehicles must be in good working order. ()

06. Driver Must be Eighteen. The driver of a motor vehicle who transports program participants must be at least eighteen (18) years of age. ()

371. -- 374. (RESERVED)

375. LIFE SKILLS SERVICES.

Each program that provides life skills services must comply with the requirements in this rule. ()

01. Personal and Family Life Skills. A program for life skills services must be non-clinical and designed to enhance personal and family skills for each participant's needs. Life skills services for work and home, reduce marriage and family conflict, and develop attitudes and capabilities that support the adoption of healthy, recovery-oriented behaviors and healthy re-engagement with the community for the participant. ()

02. Individual and Group Activities. A program providing life skills services may be provided on an individual basis or in a group setting and can include activities that are culturally, spiritually, or gender-specific. ()

03. No Duplication of Services. Life skills services provided by a program must not duplicate services currently provided under another program. ()

376. -- 379. (RESERVED)

380. STAFFED SAFE AND SOBER HOUSING FOR ADOLESCENTS.

Each program that provides staffed safe and sober housing for adolescents must comply with the requirements in this rule. ()

01. Licensed. A program providing staffed safe and sober housing services for adolescents must be licensed as a Children's Residential Care Facility under IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ()

02. Policies and Procedures. A program providing safe and sober housing for adolescents must have written policies and procedures that establish house rules and requirements and include procedures for monitoring participant compliance and consequences for violating house rules and requirements. ()

03. Safe and Sober Recovery Skills. Safe and sober housing services are directed toward applying recovery skills, preventing relapse, improving social functioning and ability for self-care, promoting personal responsibility, developing a social network supportive of recovery, and reintegrating the each adolescent into the

worlds of school, work, family life, and preparing for independent living. ()

381. -- 384. (RESERVED)

385. STAFFED SAFE AND SOBER HOUSING SERVICES FOR ADULTS.

Each program that provides staffed safe and sober housing for adults must comply with the requirements in this rule. ()

01. Policies and Procedures. A program providing safe and sober housing must have written policies and procedures that establish house rules and requirements and include procedures for monitoring participant compliance and consequences for violating house rules and requirements. ()

02. Staff Required. A staff person must be available to residents twenty-four (24) hours per day, seven (7) days a week, and conduct daily site visits: At a minimum, staff must include: ()

a. A house manager who is on-site at a minimum of twenty (20) hours a week; or ()

b. A housing coordinator who is off-site, but monitors house activities on a daily basis. ()

03. Certified Home Inspection. Each staffed safe and sober housing for adults program must have a certified home inspection for each location. There must be documentation that any major health and safety issues identified in the certified home inspection are corrected. ()

04. Safety Inspection. Each staffed safe and sober housing location must be inspected weekly by staff to determine if hazards or potential safety issues exist. A record of the inspection must be maintained that includes the date and time of the inspection, problems encountered, and recommendation for improvement. ()

386. -- 389. (RESERVED)

390. THERAPEUTIC ENVIRONMENT OF RESIDENTIAL TREATMENT.

Each program providing twenty-four (24) hours per day residential treatment must provide a therapeutic environment that enhances the participants positive self-image, preserves their human dignity, and meets the minimum standards in these rules. ()

01. Living Conditions. A residential treatment program must meet the following requirements regarding each participant's therapeutic environment: ()

a. Each participant must be allowed to wear his own clothing. If clothing is provided by the program, it must be appropriate and not demeaning. ()

b. Each participant must be allowed to keep and display personal belongings, and to add personal touches to the decoration of own room. ()

c. A residential treatment program must have policies and procedures for storage, availability, and use of personal possessions, personal hygiene items, and other belongings. ()

d. The residential treatment program must have ample closet and drawer space for the storage of personal property and property provided for each participant's use. ()

02. Resident Sleeping Rooms. A residential treatment program must assure that: ()

a. Resident sleeping rooms are not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; ()

b. Sufficient window space must be provided for natural light and ventilation. Emergency egress or rescue windows must comply with the state-adopted Uniform Building Code. This code is available from the International Code Council, 4051 West Fossmoor Rd. Country Club Hills, IL 60478-5795, phone:1-888-422-7233

and online at <http://www.iccsafe.org>; ()

c. Square footage requirements for resident sleeping rooms must provide at least seventy (70) square feet, exclusive of closet space, in a single occupancy room. In a multiple occupancy room, there must be at least forty-five (45) square feet per occupant, exclusive of closet space. Existing multiple occupancy sleeping rooms may be approved relative to square feet per occupant until the room is remodeled or the building is extensively remodeled. ()

d. Window screens must be provided on operable windows; ()

e. Doorways to sleeping areas must be provided with doors in order to provide privacy; and ()

f. Separate bedrooms and bathrooms must be provided for men and women. ()

03. Contributions of Therapeutic Environment. The environment of the residential treatment program must contribute to the development of therapeutic relationships in the following ways: ()

a. Areas must be available for a full range of social activities for all participants, from two (2) person conversations to group activities; ()

b. Furniture and furnishings must be comfortable and maintained in clean condition and good repair;
and ()

c. All equipment and appliances must be maintained in good operating order. ()

391. -- 394. (RESERVED)

395. RESIDENTIAL WITHDRAWAL MANAGEMENT SERVICES.

Each program providing substance use disorders residential withdrawal management services must comply with the requirements in this rule. ()

01. Residential Withdrawal Management Services. ()

a. Residential withdrawal management programs must provide living accommodations in a structured environment for individuals who require twenty-four (24) hour per day, seven (7) days a week, supervised withdrawal management services. ()

b. Withdrawal management services must be available continuously twenty-four (24) hours per day, seven (7) days per week. ()

c. Each withdrawal management program must have clear written policies and procedures for the withdrawal management of participants. The policies and procedures must be reviewed and approved by a medical consultant with specific knowledge of best practices for withdrawal management. ()

d. The level of monitoring of each participant or the physical restrictions of the environment must be adequate to prevent a participant from causing serious harm to self or others. ()

e. Each withdrawal management program must have provisions for any emergency care required. ()

f. Each withdrawal management program must have written policies and procedures for the transfer of participants from one (1) withdrawal management program to another, when necessary. ()

g. Each withdrawal management program must have written policies and procedures for dealing with a participant who leaves against professional advice. ()

02. Residential Withdrawal Management Staffing. Each withdrawal management program must

have twenty-four (24) hour per day, seven (7) days a week, trained personnel staff coverage. ()

a. A minimum staff to participant ratio of one (1) trained staff to six (6) participants must be maintained twenty-four (24) hours per day, seven (7) days a week. ()

b. Each staff member responsible for direct care during withdrawal management must have completed CPR training, a basic first-aid training course, and additional training specific to withdrawal management prior to being charged with the responsibility of supervising participants. ()

03. Transfer to an Outside Program From Residential Withdrawal Management. The residential treatment program must have policies and procedures established for transferring a participant to another program. ()

396. -- 399. (RESERVED)

400. RESIDENTIAL TREATMENT SERVICES FOR ADOLESCENTS.

A behavioral health program providing adolescent residential treatment for substance use disorders must comply with the requirements in this rule. ()

01. Licensed for Adolescent Residential Treatment. Each residential treatment program must be licensed as a Children's Residential Care Facility under IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ()

02. Admission Criteria for Adolescent Residential Treatment. A behavioral health program providing adolescent residential treatment for substance use disorders must only admit adolescents with a primary substance use disorder diagnosis. ()

03. Focus of Adolescent Residential Treatment Services. Adolescent residential treatment services for substance use disorders must focus primarily on substance use disorders diagnosed problems. Care must include hours specific to substance use disorders treatment provided by clinical staff, including planned and structured education, individual and group counseling, family counseling, and motivational counseling. An adolescent residential treatment program must provide: ()

a. Individual and group counseling sessions; ()

b. Family treatment services; and ()

c. Substance use disorders education sessions; ()

04. Staff Training in Adolescent Residential. Annual staff training must include: ()

a. Cultural sensitivity and diversity; ()

b. Behavior management; and ()

c. Adolescent development issues appropriate to the population served. ()

05. Residential Care Provided to Adolescents and Adults. A behavioral health program providing residential treatment services to adolescents and adults must ensure the separation of adolescent participants from adult participants. This includes not sharing the same wing, or the same floor for recreation, living, sleeping, and restroom facilities. Adolescents must not dine with adult residents. Adolescents must not share treatment groups, recreation, counseling sessions, educational programs, or treatment programs with adults except under continued care in compliance with IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," and Subsections 300.03 and 300.04 of these rules. ()

06. After Care Plan for Adolescent in Residential. An adolescent's residential care facility that provides substance use disorders treatment must develop a written plan of after care services for each adolescent that

includes procedures for reintegrating the adolescent into the family and community as appropriate, and outpatient and other continued care services recommended. ()

401. -- 404. (RESERVED)

405. RESIDENTIAL TREATMENT SERVICES FOR ADULTS.

A behavioral health program providing adult residential treatment for substance use disorders must comply with the requirements in this section. ()

01. Residential Treatment Services for Adults. ()

a. A residential treatment program provides living accommodations in a structured environment for adults who require twenty-four (24) hour per day, seven (7) days a week, supervision. ()

b. Services must include assessment, treatment, and referral components. ()

c. The residential treatment program must have policies and procedures for medical screening, care of participants requiring minor treatment or first aid, and handling of medical emergencies. These provisions must be approved by the staff and consulting physician. ()

d. The residential treatment program must have written provisions for referral or transfer to a medical facility for any person who requires nursing or medical care. ()

e. Recreational activities must be provided for the participants. ()

02. Staffing Adult Residential. The residential treatment program must have must have qualified staff to maintain appropriate staff to participant ratios. ()

a. The program must have one (1) qualified substance use disorders professional staff member for every ten (10) participants. ()

b. The program must have other staff sufficient to meet the ratio of one (1) staff person to twelve (12) participants continuously, twenty-four (24) hours per day. ()

03. Residential Care Provided to Adolescents and Adults. A behavioral health program providing residential care to adolescents and adults must ensure the separation of adolescent participants from adult participants. Adults and adolescents can not share the same wing, or the same floor for recreation, living, sleeping, and restroom facilities. Adolescents must not dine with adult residents. Adolescents must not share treatment groups, recreation, counseling sessions, educational programs, or treatment programs with adults unless there is a documented therapeutic reason. ()

406. -- 409. (RESERVED)

410. OUTPATIENT TREATMENT SERVICES FOR ADOLESCENTS AND ADULTS.

A behavioral health program providing outpatient or intensive outpatient substance use disorder services must comply with the requirements in this section. ()

01. Treatment Services. ()

a. Counseling services must be provided through the outpatient program on an individual, family, or group basis; ()

b. Services must include educational instruction and written materials on the nature and effects of alcohol and substance use disorders and the recovery process. ()

c. The behavioral health program must provide adjunct services or refer the participant to adjunct services as indicated by participant need. ()

02. Staffing Ratios. The behavioral health program must have qualified staff to maintain appropriate staff to participant ratios as required in Subsections 410.02.a. through 410.02.c. of this rule. ()

a. An outpatient program must employ at a minimum one (1) qualified substance use disorders professional staff person for every fifty (50) participants. ()

b. An intensive outpatient program must employ at a minimum one (1) qualified substance use disorders professional staff person for every thirty (30) participants. ()

c. The maximum caseload for one (1) qualified substance use disorders professional in any outpatient or intensive outpatient program is fifty (50) participants. ()

03. Off-site Treatment Service Delivery Settings. Provision of outpatient or intensive outpatient treatment services outside of an approved behavioral health program location: ()

a. Services must be provided by qualified substance use disorders professional. ()

b. Services must be provided in a setting that is safe and appropriate to the participant and participant's needs. ()

c. Confidentiality according to 42 CFR and HIPAA regulations must be adhered to. ()

d. The need and appropriateness of providing off-site treatment is documented. ()

411. -- 414. (RESERVED)

415. MEDICATION ASSISTED TREATMENT.

01. Medication Assisted Treatment Services. A behavioral health program providing medication assisted treatment for substance use disorders must make counseling and behavioral therapies available in combination with medication assisted treatment services. ()

02. Opioid Treatment Program. An Opioid Treatment Program (OTP) must meet all requirements established under 42 CFR, Section 8.12, Federal Opioid Treatment Standards. These standards are incorporated by reference under Section 004 of these rules including how access the standards. ()

~~304~~16. -- 999. (RESERVED)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.07.20 - ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT
AND RECOVERY SUPPORT SERVICES FACILITIES AND PROGRAMS
DOCKET NO. 16-0720-1501 (CHAPTER REPEAL)
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 Title 39, Chapter 3, and Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, 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 September 16, 2015.

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

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

This chapter of rules is being repealed in its entirety. The Department is integrating services to better match current practices for substance use disorders and mental health services. This repealed chapter will be replaced with a new chapter in IDAPA 16.07.15, "Behavioral Health Programs," publishing simultaneously in this Bulletin under Docket Number 16-0715-1501.

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 negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking has no fiscal impact to the state general fund, or any other funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 6, 2015, Idaho Administrative Bulletin, [Vol.15-5, pages 62-63](#) under Docket No. 16-0720-1501. The Department held three meetings around the state and also allowed participants to conference call into the meetings.

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

CONTACT INFORMATION, WEB ADDRESS, 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 September 23, 2015.

DATED this 7th Day of August, 2015.

Tamara Prisock, DHW - Administrative Rules Unit
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IDAPA 16.07.20 IS BEING REPEALED IN ITS ENTIRETY