

Dear Senators HEIDER, Souza, Jordan, and  
Representatives WOOD, Packer, Chew:

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

IDAPA 16.01.04 - Emergency Medical Services (EMS) - Account III Grants - Proposed Rule (Docket  
No. 16-0104-1701);

IDAPA 16.02.04 - Rules Governing Emergency Medical Services Account III Grants - Proposed  
Rule (Docket No. 16-0204-1701);

IDAPA 16.02.12 - Procedures and Testing to be Performed on Newborn Infants - Proposed Rule  
(Docket No. 16-0212-1701);

IDAPA 16.03.19 - Rules Governing Certified Family Homes - Proposed Rule (Docket No.  
16-0319-1701);

IDAPA 16.05.03 - Rules Governing Contested Case Proceedings and Declaratory Rulings - Proposed  
Rule (Docket No. 16-0503-1701).

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 10/23/2017. 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 11/21/2017.

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:** Senior Legislative Research Analyst - Elizabeth Bowen

**DATE:** October 03, 2017

**SUBJECT:** Department of Health and Welfare

IDAPA 16.01.04 - Emergency Medical Services (EMS) - Account III Grants - Proposed Rule (Docket No. 16-0104-1701)

IDAPA 16.02.04 - Rules Governing Emergency Medical Services Account III Grants - Proposed Rule (Docket No. 16-0204-1701)

IDAPA 16.02.12 - Procedures and Testing to be Performed on Newborn Infants - Proposed Rule (Docket No. 16-0212-1701)

IDAPA 16.03.19 - Rules Governing Certified Family Homes - Proposed Rule (Docket No. 16-0319-1701)

IDAPA 16.05.03 - Rules Governing Contested Case Proceedings and Declaratory Rulings - Proposed Rule (Docket No. 16-0503-1701)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.01.04, 16.02.04, 16.02.12, 16.03.19, and 16.05.03.

#### 16.01.04

This is a proposed new chapter of rules concerning EMS Account III grant applications. Account III grants are awarded from a fund created by Section 56-1018B, Idaho Code, for the "purpose of acquiring vehicles and equipment for use by emergency medical services personnel in the performance of their duties." The current chapter of rules on Account III grants has not been updated for several years, and the new chapter of rules reflects changed practices, such as allowing for electronic submission of applications.

Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Section 56-1018B, Idaho Code, which provides that the Department shall distribute grants from the fund according to certain criteria.

#### 16.02.04

This proposed rule would repeal the current chapter of rules concerning EMS Account III grants, which would be replaced by the chapter of rules discussed above.

Mike Nugent, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Section 56-1018B, Idaho Code, which provides that the Department shall distribute grants from the fund according to certain criteria.

#### 16.02.12

This proposed rule would include critical congenital heart defect (CCHD) screening as part of the required newborn screening panel. Under the rule, newborns in Idaho would be screened for serious heart defects. The screening, which assesses oxygen saturation of hemoglobin in the blood, is noninvasive and is already performed in other states and by most large hospitals in Idaho.

Negotiated rulemaking was not conducted; informal stakeholder meetings were held in its place. The anticipated fiscal impact is \$20,000 annually to cover operating costs, including provider training, purchase of tool kits, and development of educational materials. The Department states that this rulemaking is authorized pursuant to several sections of the Idaho Code, including Section 39-906, which permits rulemaking related to newborn screening.

#### 16.03.19

This proposed rule contains significant revisions to the rules regarding certified family homes. The updates are being made to bring the rule in alignment with current best practices. Changes include training requirements, fire drill requirements, minimum standards of care, utility requirements, rules pertaining to hourly adult care, reporting requirements and requirements on safeguarding medications.

Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Section 39-3505, Idaho Code, which permits rulemaking for certified family homes.

#### 16.05.03

This proposed rule clarifies administrative appeals proceedings for the Department, in order to comply with a settlement agreement in a lawsuit and with federal regulations. Types of appeals affected include child support enforcement proceedings, proceedings for Medicaid beneficiaries, and facility licensing and certification proceedings. Obsolete language is also being updated or removed.

Negotiated rulemaking was not conducted due to the nature of the rule changes, which are being made for compliance purposes. There is no anticipated negative fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to several sections of the Idaho Code, including Section 56-1005, which permits rulemaking to carry out duties assigned to the Department by law.

cc: Department of Health and Welfare  
Beverly Barr and Frank Powell

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

**16.01.04 – EMERGENCY MEDICAL SERVICES (EMS) – ACCOUNT III GRANTS**

**DOCKET NO. 16-0104-1701 (NEW CHAPTER)**

**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 56-1018B, Idaho Code.

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

<b>PUBLIC HEARING SCHEDULE</b>
<b>Thursday, September 21, 2017 - 10:30 am (MDT)</b>
<b>Department of Health &amp; Welfare Bureau of EMS Preparedness Boise, ID</b>
<b>TELECONFERENCE CALL-IN</b>
<b>Toll Free: 1-213-929-4212 Participant Code: 897-402-816</b>
<b>WEBINAR</b>
<b>Participate through computer and Internet audio <a href="https://attendee.gotowebinar.com/register/368729305232240129">https://attendee.gotowebinar.com/register/368729305232240129</a> PRE-REGISTRATION is required</b>

The hearing site 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 proposing this new chapter of rules in IDAPA 16.01.04, “Emergency Medical Services (EMS) - Account III Grants,” to update the processes for EMS grant applications and other requirements for the approval of these grants. The current chapter of rules under IDAPA 16.02.04, “Rules Governing Emergency Medical Services Account III Grants,” is being repealed in its entirety in this same Bulletin under Docket No. 16-0204-1701.

**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 state general funds or any other funds except the costs of the rule promulgation, which includes printing and publication. Funds that are distributed through this program are dedicated funds provided under Section 56-1018B, Idaho Code.

**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 under the current chapter Docket No. 16-0204-1701 in the May 3, 2017, Idaho Administrative Bulletin, **Vol. 17-5, pages 63-64**, and the June 7, 2017, Idaho Administrative Bulletin, **Vol. 17-6, page 35**.

**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 John Cramer 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 September 27, 2017.

DATED this 4th day of August, 2017.

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](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0104-1701**  
**(This is a Complete Chapter Rewrite, All Sections are Included.)**

**IDAPA 16**  
**TITLE 01**  
**CHAPTER 04**

**16.01.04 – EMERGENCY MEDICAL SERVICES (EMS) – ACCOUNT III GRANTS**

**000. LEGAL AUTHORITY.**

The Idaho Board of Health and Welfare is authorized under Section 56-1023, Idaho Code, to adopt rules and standards concerning the administration of the Idaho Emergency Medical Services Act, Sections 56-1011 through 56-1023, Idaho Code. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical service program. The Bureau of Emergency Medical Services of the Department of Health and Welfare is responsible under Section 56-1018B, Idaho Code, to administer the Emergency Medical Services Fund III. ( )

**001. TITLE AND SCOPE.**

**01. Title.** The title of these rules is IDAPA 16.01.04, “Emergency Medical Services (EMS) – Account III Grants.” ( )

**02. Scope.** These rules specify the eligibility criteria, application process, and distribution methodology used by the Department to award grants from this dedicated fund known as the Emergency Medical Services Account III. ( )

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for these rules. ( )

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals and contested cases are governed by the provisions of IDAPA 16.05.03, “Rules Governing

Contested Case Proceedings and Declaratory Rulings.” ( )

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter of rules. ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS – STREET ADDRESS – TELEPHONE NUMBER – INTERNET WEBSITE.**

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

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

**03. Street Address.** ( )

**a.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, ID 83702. ( )

**b.** The Bureau of Emergency Medical Services and Preparedness is located at 2224 East Old Penitentiary Road, Boise, ID 83712-8249. ( )

**04. Telephone.** ( )

**a.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ( )

**b.** The telephone number for the Bureau of Emergency Medical Services and Preparedness is (208) 334-4000. The toll-free phone number is 1-877-554-3367. ( )

**c.** The FAX number for the Bureau of Emergency Medical Services and Preparedness is (208) 334-4015. ( )

**05. Internet Websites.** ( )

**a.** The Department internet website is found at <http://www.healthandwelfare.idaho.gov>. ( )

**b.** The Bureau of Emergency Medical Services and Preparedness internet website is found at <http://www.idahoems.org>. ( )

**06. Email Address.** The email address for grants is: [emsgrants@dhw.idaho.gov](mailto:emsgrants@dhw.idaho.gov). ( )

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

**01. Confidentiality of Records.** Any disclosure of confidential information used or disclosed in the course of the Department’s business is subject to the restrictions in state or federal law and must comply with IDAPA 16.05.01, “Use and Disclosure of Department Records.” ( )

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

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

For the purposes of these rules the following definitions apply. ( )

**01. Award.** The placement of a grant applicant on a prioritized list indicating the potential for receipt

of grant approval during the current fiscal year. ( )

**02. Emergency Medical Services Advisory Committee (EMSAC).** The statewide advisory board of the Department as described in IDAPA 16.01.01, “Emergency Medical Services (EMS) - Advisory Committee (EMSAC).” EMSAC members are appointed by the Director of the Idaho Department of Health and Welfare to provide counsel to the Department on administering the EMS Act. ( )

**03. Capital Equipment.** Capital equipment refers to durable goods acquired by an entity but not consumed in the normal course of business. ( )

**04. EMS Account III.** A dedicated fund subject to appropriation by the Legislature that is established and defined in Section 56-1018B, Idaho Code. ( )

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

**06. EMS Bureau.** The Bureau of Emergency Medical Services and Preparedness of the Idaho Department of Health and Welfare. ( )

**07. Grant.** The disbursement of funds from, or capital equipment purchased by, EMS Account III revenue. ( )

**08. Grant Applicant.** An entity submitting documents required by the EMS Bureau for the purposes of acquiring funds or capital equipment from the EMS Account III established by Section 56-1018B, Idaho Code. ( )

**09. Grant Approval.** The disbursement of a grant from EMS Account III to a grant applicant. ( )

**10. Grant Cycle.** The process of grant application distribution, application submission, awards and approval which occur in accordance with dates established in these rules. ( )

**011. -- 099. (RESERVED)**

**100. AWARD ELIGIBILITY REQUIREMENTS.**

To be considered for an award, a grant applicant must be recognized by the EMS Bureau as one (1) of the following: ( )

**01. A Currently Licensed EMS Agency.** The grant applicant must hold a current Ambulance or Non-Transport License in accordance with IDAPA 16.01.03, “Emergency Medical Services (EMS) -- Agency Licensing Requirements.” ( )

**02. A Grant Applicant with a Pending Idaho EMS License.** Grant approval will not be issued to a grant applicant until an Idaho EMS license has been issued. ( )

**a.** Grant applicants with a pending Idaho EMS license are ineligible if licensure is not achieved by the grant cycle application deadline described in Section 200 of these rules. ( )

**b.** Grant applicants determined to be ineligible for an award due to licensure status may reapply in a subsequent grant cycle. ( )

**03. A Currently Licensed EMS Agency with a Pending Licensure Change Request.** A grant applicant that is a currently licensed EMS agency with a pending change to licensure may receive grant approval for any ambulance or equipment which is necessary for the pending licensure change only if the licensure change is approved by the EMS Bureau. ( )

**101. -- 199. (RESERVED)**

**200. GRANT CYCLE.**

The following subsections in this rule provide the grant cycle and due dates the EMS Bureau uses to conduct the grant process. ( )

**01. Application Availability.** The EMS Bureau provides an application and guidance document available no later than January 1 of each year, which initiates the grant cycle. The application may be accessed online or requested as provided in Section 005 of these rules. ( )

**02. Application Period.** The grant applicant has through April 1 of the grant cycle to complete and submit the application to the EMS Bureau. The application must be submitted by one (1) of the following methods on or before the due date of the grant cycle: ( )

- a. Email is the preferred method and must be received by the end of the due day; ( )
- b. Mail must be post marked by the due day; ( )
- c. Fax must be received by the end of the due day; or ( )
- d. In person, by the close of business on the due day. ( )

**03. Application Evaluation Period.** The EMS Bureau and state EMS Advisory Committee evaluates the applications received from eligible grant applicants prior to June 1 of the grant cycle. ( )

**04. Award Notification.** The EMS Bureau issues a notification to every grant applicant regarding the disposition of their grant request prior to July 1 of the grant cycle. ( )

**05. Grant Approval.** Grant disbursements to the grant applicant occur prior to September 1 of the grant cycle. ( )

**06. Return of Unused Grant Funds.** All unused grant funds must be returned to the EMS Account III by the grant applicant no later than June 1 of the next calendar year that ends the grant cycle. ( )

**201. APPLICATION REQUIRED.**

A completed EMS Bureau grant application must be submitted by the grant applicant on or before the conclusion of the application period specified in Section 200 of these rules. ( )

**01. Required Information.** The grant applicant must provide the following information for the application: ( )

- a. Documentation of one (1) or more vendor price quotes for all capital equipment purchases: ( )
  - i. Contact EMS Bureau for an Agency Vehicle Fleet Report, to update and return with application; ( )
  - ii. If requesting a vehicle, updated fleet information must be submitted on a form provided by the Bureau; ( )
  - iii. If replacing a vehicle, include a copy of the title or registration for the vehicle being replaced; or ( )
  - iv. If requesting extrication equipment, a list of all personnel trained for extrication operations must be included. ( )
- b. Operating budget; ( )
- c. All funding sources and revenue generated by source; ( )



- d. Contact person for verification of fiscal information; ( )
- e. Federal Tax Identification Number; ( )
- f. Resident population within the grant applicant’s response area in Idaho; ( )
- g. Type, and quantity of EMS Responses and run dispositions occurring during the specified time-period accompanied by supporting documents generated by the agency dispatch computer system or the agency electronic patient care reporting system; ( )
- h. Type, quantity, and purpose of similar equipment presently in use by the applicant; ( )
- i. Age and condition of equipment being replaced if applicable; ( )
- j. Narrative descriptions of need; ( )
- k. Prioritization by the grant applicant of equipment requested when the application requests funding for two (2) or more items or groups of identical items; and ( )
- l. City or County governmental endorsement. ( )

**02. Incomplete Application.** A grant application that is missing required information is excluded from consideration for an award. ( )

**03. Application Purpose.** The grant application and any attachments submitted by the grant applicant are the primary source of information for awarding a grant. ( )

**202. -- 299. (RESERVED)**

**300. AWARD RECOMMENDATION.**

IDAPA 16.01.01, “Emergency Medical Services (EMS) -- Advisory Committee (EMSAC),” Section 120, provides that EMSAC is responsible for reviewing and making recommendations to the EMS Bureau regarding the distribution of grant funds. ( )

**01. Assessment and Validation of Need.** The EMSAC must review grant applications prior to EMSAC making a recommendation to the EMS Bureau regarding the distribution of awards. ( )

**02. Contingency Awards.** The EMSAC may make recommendations regarding what awards the EMS Bureau may consider in the event that an award grant application is withdrawn as described in Section 501 of these rules. ( )

**301. CRITERIA FOR EMS VEHICLES.**

The following criteria must be used to evaluate applications for EMS vehicles, with maximum weight available for each criterion as indicated. Greater weight will be assigned to those conditions which indicate greater need for each criterion: ( )

**01. Applicant Fleet Size.** The number and type of vehicles currently in use by the grant applicant; weight = ten (10). The application demonstrating a smaller fleet size will be assigned greater weight. ( )

**02. Age of Applicant Vehicle(s).** The number of years which has elapsed since the vehicle being replaced was originally manufactured or rechassied; weight = fifteen (15). The application demonstrating greater age of vehicle(s) will be assigned greater weight. ( )

**03. Mileage of Applicant Vehicle(s).** The number of miles reflected on the vehicle odometer at the time of application; weight = fifteen (15). The application demonstrating higher mileage of similar vehicles in active use will be assigned greater weight. ( )

**04. Deployment Ratios.** A mathematical comparison of current and post-grant vehicle availability based on the number of similar vehicles divided by the applicant coverage area in square miles and the number of similar vehicles divided by the population; weight = fifteen (15). The application demonstrating a greater change in deployment ratio will be assigned greater weight. ( )

**05. EMS Response Type.** A comparison of pre-hospital EMS Response Types and total EMS Responses; weight = ten (10). The application demonstrating a higher percent of pre-hospital calls will be assigned a greater weight. ( )

**06. Fiscal Resource Base.** The proportion of operating budget supported by public funds; weight = ten (10). The application demonstrating less revenue from public funds expressed as a percent of total revenue for the most recent year will be assigned greater weight. ( )

**07. Local Government Endorsement.** Local government endorsements from Idaho cities and counties within the applicant's primary response area; weight = five (5). Applications submitted with one (1) or more endorsement(s) will be awarded five (5) points. ( )

**08. Prevalence of Volunteers.** The percent of certified personnel identified on the most recent agency license application as volunteer; weight = percent/10. The application demonstrating a greater prevalence of volunteer certified personnel will be assigned greater weight. ( )

**09. Narrative.** The need for and lack of availability of funds from other sources as documented by the grant applicant; weight = ten (10). The application demonstrating a greater need for and lack of available funds will be assigned greater weight. ( )

**10. Previous Award of Vehicle by EMS Account III Grant.** Based on most recent vehicle award applicants will receive points based on elapsed time from most recent vehicle award; weight = five (5). The application declaring a recent vehicle award will be assigned a lesser value. ( )

**302. CRITERIA FOR OTHER EMS EQUIPMENT.**

The following criteria must be used to evaluate grant applications for other EMS equipment, with maximum weight available for each criterion as indicated. Greater weight will be assigned to those conditions which indicate greater need for each criterion: ( )

**01. Applicant Equipment.** The number, type and age of similar equipment currently in use by the grant applicant; weight = fifteen (15). The application demonstrating lack of accessibility to similar equipment will be assigned greater weight. ( )

**02. Anticipated Use.** An estimate of the frequency and patient types for which the equipment may be used based on utilization percentages for the specified period; weight = fifteen (15). The application demonstrating greater anticipated use will be assigned greater weight. ( )

**03. Duration of Use.** An estimate of the length of time the equipment would be used for a patient when indicated, expressed as a mean time; weight = fifteen (15). The application demonstrating a greater duration of use will be assigned greater weight. ( )

**04. Deployment Ratios.** A mathematical comparison of current and post-grant equipment availability based on number of pieces of similar equipment divided by the applicant coverage area in square miles and the number of pieces of similar equipment divided by population; weight = fifteen (15). The application demonstrating a greater change in deployment ratio will be assigned greater weight. ( )

**05. EMS Response Type.** A comparison of pre-hospital EMS Response Types and total EMS Responses; weight = ten (10). The application demonstrating a higher percent of pre-hospital calls will be assigned a greater weight. ( )

**06. Fiscal Resource Base.** The proportion of operating budget supported by public funds; weight = ten (10). The application demonstrating less revenue from public funds expressed as a percent of total revenue for the

most recent year will be assigned greater weight. ( )

**07. Local Government Endorsement.** Local government endorsements from Idaho cities and counties within the applicant’s primary response area; weight = five (5). Applications submitted with one (1) or more endorsement(s) will be awarded five (5) points. ( )

**08. Prevalence of Volunteers.** The percent of certified personnel identified on the most recent agency license application as volunteer; weight = percent/10. The application demonstrating a greater prevalence of volunteer certified personnel will be assigned greater weight. ( )

**09. Narrative.** The need for and lack of availability of funds from other sources as documented by the grant applicant; weight = ten (10). The application demonstrating a greater need for and lack of available funds will be assigned greater weight. ( )

**303. -- 399. (RESERVED)**

**400. SECURITY INTEREST.**

Each successful grant applicant is required to execute a security agreement as required in Section 56-1018B(2)(e), Idaho Code. The security agreement must be a signed by the person authorizing the grant application. The Department provides a Subgrant and Security Agreement for Vehicle/Equipment for signature. ( )

**401. -- 499. (RESERVED)**

**500. UNUSED GRANT FUNDS.**

All funds not expended for costs associated with the applicant’s award must be returned to the EMS Account III by June 1 of the grant cycle during which the funds were awarded. ( )

**501. WITHDRAWAL OF GRANT APPLICATION.**

Any grant applicant may withdraw or forfeit a grant application at any time. ( )

**01. Notification.** The EMS Bureau may discontinue the grant award or approval process if either of the following occurs: ( )

**a.** The chief administrative official of the grant applicant agency or his designee submits a notice of withdrawal in written form to the EMS Bureau; or ( )

**b.** The grant applicant does not provide required documentation during the award or approval process. ( )

**02. No Right of Assignment.** The grant applicant may not assign any award. ( )

**03. Ability to Compete.** The withdrawal of a grant application does not affect the grant applicant’s ability to reapply in a subsequent grant cycle. ( )

**502. FRAUDULENT INFORMATION ON GRANT APPLICATION.**

Providing false information on any grant application or document submitted under these rules is grounds for declaring the grant applicant ineligible. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the EMS III account. ( )

**503. -- 999. (RESERVED)**

## IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

### 16.02.04 – RULES GOVERNING EMERGENCY MEDICAL SERVICES ACCOUNT III GRANTS

DOCKET NO. 16-0204-1701 (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 Section 56-1018B, Idaho Code.

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

<b>PUBLIC HEARING</b>
<b>Thursday, September 21, 2017 - 10:30 am (MDT)</b>
<b>Department of Health &amp; Welfare Bureau of EMS Preparedness Boise, ID</b>
<b>TELECONFERENCE CALL-IN</b>
<b>Toll Free: 1-213-929-4212 Participant Code: 897-402-816</b>
<b>WEBINAR</b>
<b>Participate through computer and Internet audio <a href="https://attendee.gotowebinar.com/register/368729305232240129">https://attendee.gotowebinar.com/register/368729305232240129</a> PRE-REGISTRATION is required</b>

The hearing site 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 in IDAPA 16.02.04, “Rules Governing Emergency Medical Services Account III Grants,” is being repealed in its entirety. The Department is promulgating a new chapter of rules in this same Bulletin under IDAPA 16.01.04, “Emergency Medical Services (EMS) - Account III Grants,” Docket No. 16-0104-1701.

**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 state general funds or any other funds except the costs of the rule promulgation, which includes printing and publication. Funds that are distributed through this program are dedicated funds provided by Section 56-1018B, Idaho Code.

**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 3, 2017, Idaho Administrative Bulletin, **Vol. 17-5, pages 63-64**, and the June 7, 2017, Idaho Administrative Bulletin, **Vol. 17-6, page 35**.

**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 John Cramer 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 September 27, 2017.

DATED this 4th day of August, 2017.

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](mailto:dhwrules@dhw.idaho.gov)

**IDAPA 16.02.04 IS BEING REPEALED IN ITS ENTIRETY**

## **IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

### **16.02.12 – PROCEDURES AND TESTING TO BE PERFORMED ON NEWBORN INFANTS**

**DOCKET NO. 16-0212-1701**

#### **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 39-605, 39-906, 39-1603, 39-4502, and 56-1003, 56-1005, 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 20, 2017.

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:

Most of the larger hospitals in Idaho perform universal Critical Congenital Heart Defect (CCHD) screening as part of the newborn screening panel. However, some of the smaller, more rural hospitals and birthing centers do not. Idaho is the only state that does not have rules that cover the requirements for CCHD screening. This rule change adds CCHD to the uniform screening panel for all newborns in Idaho. Congenital heart defects are the most common birth defect and impact approximately 8 out of every 1,000 infants born. Of these, approximately 25% (2.4 per 1,000) are considered critical and require immediate detection and intervention. In Idaho, it is estimated that approximately 55 infants are born each year with CCHD. The goal of CCHD screening is to identify and treat newborns with structural heart defects utilizing a simple, cost-effective, and noninvasive screening test where oxygen saturation is assessed after the first 24 hours of life. Without this intervention, the rates of mortality and survival with significant disability are extremely high among infants with CCHD.

This proposed rule change adds CCHD as a required screening and mandates that all newborns receive a CCHD screening shortly after birth. If the proposed rules are approved, the Department will add CCHD screening information to their birth certificate system in Vital Records. This would allow the Idaho Newborn Screening Program to monitor screening compliance and provide assistance to families including referrals for follow-up care on positive screens.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**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:

An annual ongoing cost of \$20,000 in general funds is projected for the Department to cover operating costs for pediatric cardiologist consultation, provider training, purchase of tool kits, and development of other educational materials. Staff time and other operating costs to implement the rules, such as the changes to the birth certificate system, will be covered annually under federal funds through the Department's Maternal and Child Health Program.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because informal stakeholder meetings are being conducted in a shorter time frame.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the Critical CHD Screening Methods by the Centers for Disease Control and Prevention, from "Strategies of Implementing Screening for Critical Congenital Heart Diseases," Kemper, et al., 2011, is being incorporated by reference into these rules to give it the force and effect of law. The document is not being reprinted in this chapter of rules due to its format.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jacquie Watson at (208) 334-5963.

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 27, 2017.

DATED this 4th day of August, 2017.

Tamara Prisock  
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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0212-1701**  
**(Only Those Sections With Amendments Are Shown.)**

**001. TITLE AND SCOPE.**

**01. Title.** ~~The *se rules are to be cited in full as Idaho Department of Health and Welfare Rules, title of these rules is*~~ IDAPA 16.02.12, "Procedures and Testing to be Performed on Newborn Infants." (7-1-10)( )

**02. Scope.** These rules specify the tests and procedures that must be performed on newborn infants for early detection of metabolic disorders, endocrine disorders, hemoglobin disorders, cystic fibrosis, critical congenital heart defects, and prevention of infant blindness. (7-1-10)( )

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations ~~that apply to~~ of these rules. (5-3-03)( )

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (7-1-10)( )

**004. INCORPORATION BY REFERENCE.**

~~Under Section 67-5229, Idaho Code, this chapter incorporates by reference the following document:~~ The Department has incorporated by reference the following documents: (7-1-10)( )

**01. Document Blood Collection on Filter Paper for Newborn Screening Programs: Approved Standard, Fifth Edition.** The Department has adopted "Blood Collection on Filter Paper for Newborn Screening Programs; Approved Standard," Fifth Edition, Clinical and Laboratory Standards Institute, 2007: (ISBN 1-56238-644-1), and hereby incorporates this standard by reference. A copy is available for review at the Department described in Section 005 of these rules, or (7-1-10)

~~02. Availability. This document is available~~ through the Clinical and Laboratory Standards Institute, 940 West Valley Road, Suite 1400, Wayne, PA 19087-1898, telephone 610-688-0100. (7-1-10)( )

**02. Critical Congenital Heart Defects (CHDs).** The Department has adopted the Critical CHD Screening Methods by the Centers for Disease Control and Prevention, from "Strategies of Implementing Screening for Critical Congenital Heart Diseases," Kemper, et al., 2011, and hereby incorporates this material by reference. Copies may be obtained from the Department described in Section 005 of these rules, or online at: <https://www.cdc.gov/ncbddd/heartdefects/hcp.html>. ( )

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

**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. (7-1-10)

**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. (7-1-10)

**03. Street Address.** The business office of the Idaho Department of Health and Welfare is located at 450 West State St., Boise, Idaho 83702. (7-1-10)

**04. Telephone.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (7-1-10)

**05. Internet Website.** ( )

**a.** The Department's internet website is <http://www.healthandwelfare.idaho.gov>. (7-1-10)

**b.** The Department's internet website for newborn screening is <http://www.nbs.dhw.idaho.gov>. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS.**

The following definitions will apply in the interpretation and enforcement of this chapter: (5-3-03)

**01. Critical Congenital Heart Defects (CCHD).** CCHD, also known as critical congenital heart disease, is a term that refers to a group of serious heart defects, as defined by the CDC, that are present from birth. ( )

~~02.~~ **Department.** The Idaho Department of Health and Welfare. (5-3-03)

~~03.~~ **Dried Blood Specimen.** A blood specimen obtained from an infant by means of skin puncture, not by means of venipuncture or any other method, that is placed on special filter paper and allowed to dry. (7-1-10)

~~04.~~ **Hyperalimentation.** The administration of an amount of nutrients beyond minimum normal requirements of the appetite, in an attempt to replace nutritional deficiencies. (7-1-10)

~~05.~~ **Laboratory.** A medical or diagnostic laboratory certified according to the provisions of the Clinical Laboratory Improvement Amendments of 1988 by the United States Department of Health and Human Services. (5-3-03)

~~06.~~ **Newborn Screening.** Newborn screening means a laboratory procedure performed on dried blood specimens from newborns to detect those at risk for the diseases specified in Subsection 100.01 of these rules. (5-3-03)

~~07.~~ **Person Responsible for Registering Birth of Child.** The person responsible for preparing and filing the certificate of birth is defined in Section 39-255, Idaho Code. (5-3-03)

**08. Pulse Oximetry.** A non-invasive test that estimates the percentage of hemoglobin in blood that is saturated with oxygen using equipment approved by the U.S. Food and Drug Administration for use with newborn infants. ( )

~~09.~~ **Test Kit.** The materials provided by the laboratory for the purposes of dried blood specimen collection and submission of specimens for newborn screening laboratory procedures. (5-3-03)

**011. -- 049. (RESERVED)**

**050. USE AND STORAGE OF DRIED BLOOD SPECIMENS.**



**01. Use of Dried Blood Specimens.** Dried blood specimens will be used for the purpose of testing the infant from whom the specimen was taken, for congenital birth defects. Limited use of specimens for routine calibration of newborn screening laboratory equipment and quality assurance is permissible. (7-1-10)

**02. Prohibited Use of Dried Blood Specimens.** Dried blood specimens may not be used for any purpose other than those described in Subsection 050.01 of this rule without the express written consent of the parent(s) or guardian(s) of the infant from whom the specimen was collected. ~~(7-1-10)~~( )

**03. Storage of Dried Blood Specimens.** Dried blood specimens may be stored at the testing facility for a period not to exceed eighteen (18) months. Acceptable use of stored specimens will be for re-testing the specimen in the event of a symptomatic diagnosis or death of the infant during the storage period. (7-1-10)

**051. -- 099. (RESERVED)**

**100. DUTIES OF THE ADMINISTRATOR OF THE RESPONSIBLE INSTITUTION AND THE PERSON REQUIRED TO REGISTER THE BIRTH OF A CHILD.**

**01. Conditions for Which Infants Will Be Tested.** All infants born in Idaho must be tested for at least the following conditions: (7-1-10)

- a. Biotinidase deficiency; (5-3-03)
- b. Congenital hypothyroidism; (5-3-03)
- c. Galactosemia; (5-3-03)
- d. Maple syrup urine disease; ~~and~~ ~~(5-3-03)~~( )
- e. Phenylketonuria; ~~and~~ ~~(5-3-03)~~( )
- f. Critical congenital heart defects. ( )

**02. Blood Specimen Collection.** (5-3-03)

a. The dried blood specimen collection procedures must follow the document listed in Subsection 004.01 of these rules. (7-1-10)

b. For infants admitted to the neonatal intensive care unit (NICU), the initial dried blood specimen for newborn screening must be obtained upon admission to the NICU. (7-1-10)

c. For non-premature infants, in-hospital, the initial dried blood specimen for newborn screening must be obtained between twenty-four (24) and forty-eight (48) hours of age. (7-1-10)

d. For newborns transferred from one hospital to another, the originating hospital must assure that the dried blood specimen is drawn. If the newborn is too premature or too sick to have a dried blood specimen drawn for screening prior to transfer and a dried blood specimen is not obtained, the originating hospital must document this, and notify the hospital to which the newborn is being transferred that a dried blood specimen for newborn screening has not been obtained. (7-1-10)

e. Prior to the discharge of an infant from the institution where initial newborn care or specialized medical care was rendered, the Administrator of the institution must assure that an adequate dried blood specimen has been collected regardless of the time the infant is discharged from the institution. (7-1-10)

f. For births occurring outside of a hospital, the birth attendant is responsible for assuring that an acceptable dried blood specimen is properly collected for newborn screening as stipulated in Section 100 of these rules. (7-1-10)

**g.** Newborns who require a blood transfusion, hyperalimentation, or dialysis must have a dried blood specimen collected for screening prior to these procedures. (7-1-10)

**h.** If a dried blood specimen cannot be obtained for newborn screening before transfusion, hyperalimentation, or dialysis, the hospital must ensure that a repeat dried blood specimen is obtained at the appropriate time when the specimen will reflect the infant's own metabolic processes and phenotype. (7-1-10)

**i.** All infants must be retested. A test kit must be given to the parents or responsible party at the time of discharge from the institution where initial newborn care was rendered, with instructions to have a second dried blood specimen collected. The preferred time for sample collection is between ten (10) and fifteen (15) days of age. (7-1-10)

**03. Specimen Data Card.** The person obtaining the newborn screening specimen must complete the demographic information card attached to the sample kit. The First Specimen Card must include the infant's mother's date of birth, address, and phone number. Both the First and Second Specimen's Card must include the items listed in 100.03.a. through 100.03.k. of this rule, optional fields may be completed as needed. (7-1-10)

**a.** Name of the infant; (7-1-10)

**b.** Whether the birth was a single or multiple-infant birth; (7-1-10)

**c.** Name of the infant's mother; (7-1-10)

**d,** Gender of the infant; (7-1-10)

**e.** Method of feeding the infant; (7-1-10)

**f.** Name of the birthing facility; (7-1-10)

**g.** Date and time of the birth; (7-1-10)

**h.** Date and time the specimen was obtained; (7-1-10)

**i.** Name of the attending physician or other attendant; (7-1-10)

**j.** Date specimen was collected; and (7-1-10)

**k.** Name of person collecting the specimen. (7-1-10)

**04. Specimen Mailing.** Within twenty-four (24) hours after collection, the dried blood specimen must be mailed to the laboratory by first class mail or its equivalent, except when mailing service is not available. When mailing service is not available on weekends and holidays, dried blood specimens must be mailed to the laboratory on the first available mail pick-up day. The preferred method of mailing, following a weekend or holiday, is by expedited mail service. (7-1-10)

**05. Record Keeping.** Maintain a record of all dried blood specimens collected for newborn screening. This record must indicate: (7-1-10)

**a.** Name of the infant; (7-1-10)

**b.** Name of the attending physician or other attendant; (7-1-10)

**c.** Date specimen was collected; and (7-1-10)

**d.** Name of person collecting specimen. (7-1-10)

**06. Collection Protocol.** Ensure that a protocol for collection and submission for newborn screening of

adequate dried blood specimens has been developed, documented, and implemented. Individual responsibilities must be clearly defined and documented. The attending physician must request that the test be done. The hospital may make an appropriate charge for this service. (7-1-10)

**07. Responsibility for Recording Specimen Collection. (5-3-03)**

**a.** The administrator of the responsible institution, or his designee, must record on the birth certificate whether the dried blood specimen for newborn screening has been collected. (7-1-10)

**b.** When a birth occurs outside a hospital, the person responsible for registering the birth of the child must record on the birth certificate whether the dried blood specimen for newborn screening has been collected and submitted within twenty-four (24) hours following collection. (7-1-10)

**08. Fees.** The Department will provide access to newborn screening laboratory services. If the administration of the responsible institution or the person required to register the birth of a child chooses to utilize this service, the Department will collect a fee equal to the cost of the test kit, analytical, and diagnostic services provided by the laboratory. The fees must be remitted to the Department before the laboratory provides the test kit to those responsible for ensuring the infant is tested according to these rules. (7-1-10)

**(BREAK IN CONTINUITY OF SECTIONS)**

**301. NEWBORN CRITICAL CONGENITAL HEART DEFECTS (CCHD) SCREENING.**

**01. Pulse Oximetry for the Screening of CCHD. ( )**

**a.** For births occurring in a hospital, the administrator of the institution or his designee must assure that all infants who meet the CDC criteria for CCHD screening are screened following the algorithm on the CDC website at: <https://www.cdc.gov/ncbddd/heartdefects/hcp.html>. ( )

**b.** For births occurring outside of a hospital, the birth attendant must assure that screening for congenital heart defects is conducted through the use of pulse oximetry following the algorithm on the CDC website at: <https://www.cdc.gov/ncbddd/heartdefects/hcp.html>. ( )

**02. Responsibility of Recording CCHD Screening Results. ( )**

**a.** For births occurring in a hospital, the administrator of the responsible institution or his designee must record on the birth certificate whether the CCHD screening was performed as “passed” or “failed” following the algorithm on the CDC website at: <https://www.cdc.gov/ncbddd/heartdefects/hcp.html>, or “not screened.” ( )

**b.** For births occurring outside of a hospital, the person responsible for registering the birth of the child must record on the birth certificate whether the CCHD screening was performed as “passed” or “failed” following the algorithm on the CDC website at: <https://www.cdc.gov/ncbddd/heartdefects/hcp.html>, or “not screened.” ( )

**03. Follow Up for Abnormal CCHD Screening Results. ( )**

**a.** For births occurring in a hospital, the administrator of the responsible institution or his designee must make a referral for further evaluation of the newborn whose CCHD results are abnormal and inform the parent or legal guardian of the need for appropriate intervention. ( )

**b.** For births occurring outside of a hospital, the person performing the screening is responsible for making an immediate referral for further evaluation of the newborn whose CCHD results are abnormal and inform the parent or legal guardian of the need for appropriate intervention. ( )

**304. -- 399. (RESERVED)**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.03.19 – RULES GOVERNING CERTIFIED FAMILY HOMES

DOCKET NO. 16-0319-1701

### 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 39-3505, and 56-1005, 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 20, 2017.

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 last major revision to this chapter occurred in 2006 which means that updates are needed to address changes regarding the health care environment, technology, and best practices that have occurred during the last 10 years. The changes in this docket show the underline and strikeout of all changes being made to the current rule which is a rewrite of IDAPA 16.03.19, "Rules Governing Certified Family Homes." Also, the Centers for Medicare and Medicaid Services, as a condition for approving Idaho's transition plan for implementing Home and Community Based Service standards, required the Department to develop an eviction process for residents living in Certified Family Homes that is comparable to Idaho's landlord tenant law.

Revisions and updates are being made regarding the following: admission process; adult hourly care; assessments; certification limitations; changes in location; definitions; elements of care; enforcement actions; eviction process; fire and life safety standards; medication policy; ongoing training requirements; physical home standards; plan of service; reporting and investigation of incidents and accidents; resident funds and finances; resident records; resident rights; variances and waivers; and voluntary home closures.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**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 Fund or to dedicated funds for this rule change. This rulemaking is intended to be cost-neutral.

**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 3, 2017, Idaho Administrative Bulletin, [Vol. 17-5, pages 67-68](#).

#### **INCORPORATION BY REFERENCE:**

Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This chapter of rules has not be updated since 2006 and the American with Disabilities Guidelines in the Standards for Accessible Design have been updated. The Department is adopting the 2010 ADA - Standards for Accessible Design in this chapter of rule. Changes are for accessibility in homes being certified under these rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Millward at (208) 334-0706.

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 27, 2017.

DATED this 4th day of August, 2017.

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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0319-1701**  
**(Changes Present in Most of the Chapter, All Sections are Included.)**

**000. LEGAL AUTHORITY.**

The Idaho Board of Health and Welfare is authorized under Sections 56-1005 and 39-3505, Idaho Code, to adopt and enforce rules and standards for Certified Family Homes. The Department is authorized under Sections 56-264 and 56-1007, Idaho Code, to adopt and develop application and certification criteria, and to charge and collect application and certification fees. Under Sections 56-1002, 56-1003, 56-1004, 56-1004A, 56-1005, and 56-1009, Idaho Code, the Department and the Board of Health and Welfare have prescribed powers and duties to provide for the administration and enforcement of Department programs and rules. ~~(3-21-12)~~(\_\_\_\_)

**001. TITLE, SCOPE, AND EXCEPTIONS.**

**01. Title.** These rules are cited as IDAPA 16.03.19, “Rules Governing Certified Family Homes.” (4-11-06)

**02. Scope.** These rules set the minimum standards and administrative requirements for any home that care provider who is paid to care for an adult living in the care provider’s home, when the adult is elderly or has a developmental disability, mental illness, or physical disability, and needs assistance with activities of daily living. ~~(4-11-06)~~(\_\_\_\_)

**03. Exceptions to These Rules.** These rules do not apply to the following: (4-11-06)

**a.** Any home that individual who provides only housing, meals, transportation, housekeeping or recreational and social activities. ~~(4-11-06)~~(\_\_\_\_)

**b.** Any health facility defined by Title 39, Chapter 13, Idaho Code. (4-11-06)

**c.** Any residential care or assisted living facility defined by Title 39, Chapter 33, Idaho Code. (4-11-06)

**d.** Any arrangement for care in a relative’s home that is not compensated through a federal or state publicly-funded program. ~~(4-11-06)~~(\_\_\_\_)

**e.** Any home approved by the Department of Veterans Affairs as a “medical foster home” described in 38 CFR Part 17 and Sections 39-3502 and 39-3512, Idaho Code. Homes that Care providers who provide care to both veterans and non-veterans living in a “medical foster home” are not exempt from these rules. ~~(7-1-17)~~(\_\_\_\_)

**04. State Certification to Supersede Local Regulation.** These rules will supersede any program of any political subdivision of the state which certifies or sets standards for certified family homes. These rules do not supersede any other local regulations. (4-11-06)

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for this chapter of rule. (4-11-06)

**003. ADMINISTRATIVE APPEALS.**

All contested cases are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (4-11-06)

**004. INCORPORATION BY REFERENCE.**

The Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part 36, ~~Appendix A to Part 36 - 2010 ADA Standards for Accessible Design~~, is incorporated by reference. The internet website is <http://www.ada.gov/regs2010/ADAREgs2010.htm> ~~2010ADAstandards\_index.htm~~. (4-11-06)( )

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- INTERNET WEBSITE -- CONTACT INFORMATION.**

**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. (4-11-06)

**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. (4-11-06)

**03. Street Address.**

**a.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho, 83702. (4-11-06)

**b.** ~~The Division of Licensing and Certification main office is located at 3232 Elder Street, Boise, Idaho, 83705.~~ ( )

**04. Telephone Numbers.**

**a.** The ~~telephone number for the~~ business office of the Idaho Department of Health and Welfare is (208) 334-5500. (4-11-06)( )

**b.** ~~The business office of the Division of Licensing and Certification is (208) 364-1959.~~ ( )

**c.** ~~The Program Manager of Certified Family Homes is (208) 334-0706.~~ ( )

**05. Internet Website.**

**a.** The Department Internet website is [www.healthandwelfare.idaho.gov](http://www.healthandwelfare.idaho.gov). (4-11-06)

**b.** ~~The Certified Family Home Internet website is [www.cfhdhw.idaho.gov](http://www.cfhdhw.idaho.gov).~~ ( )

**06. Regional Certifying Agent Contact Information.** ( )

**a.** ~~Region 1 - 1120 Ironwood Drive, Coeur d'Alene, ID 83814 - (208) 665-8807;~~ ( )

**b.** ~~Region 2 - 1118 F Street, Lewiston, ID 83501 - (208) 799-4438;~~ ( )

**c.** ~~Region 3 - 3402 Franklin Road, Caldwell, ID 83605 - (208) 455-7120;~~ ( )

**d.** ~~Region 4 - 1720 Westgate Drive, Boise, 83704 - (208) 334-0700;~~ ( )

**e.** ~~Region 5 - 803 Harrison Street, Twin Falls, ID 83301 - (208) 732-1515;~~ ( )

**f.** ~~Region 6 - 1070 Hilina Road, Pocatello, ID 83201 - (208) 239-6249; and~~ ( )

~~g. Region 7 - 150 Shoup Avenue, Idaho Falls, ID 83402 - (208) 528-5721. ( )~~

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. **Confidential Records.** ~~The use of~~ Any disclosure of confidential information ~~related to used or disclosed in the course of the~~ Department's ~~client records covered by these rules~~ business is subject to the restrictions in state or federal law, and must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records," ~~and federal Public Law 103-209.~~ (4-11-06)( )

02. **Public Records Act.** The Department ~~of Health and Welfare~~ will comply with Title 74, Chapter 1, Idaho Code, when requests for ~~examining~~ ingation and of copying public records are made. Unless otherwise exempted, all public records in the custody of the Department of Health and Welfare are subject to disclosure. (4-11-06)( )

007. -- 008. (RESERVED)

009. **MANDATORY CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**

01. ~~Compliance with~~ Department Criminal History and Background Check Clearance. The provider, substitute caregivers, and all adults living in the home are required to ~~comply~~ complete a Department criminal history and background check and receive a clearance in compliance with IDAPA 16.05.06, "Criminal History and Background Checks." The resident is exempt from criminal history check requirements. (4-11-06)( )

02. **When Certification Can Be Granted.** Prior to certification being granted:

a. The provider must have a completed criminal history check, including clearance, ~~prior to certification;~~ and ( )

b. Any other adult living in the home must have completed a self-declaration form, must be fingerprinted, and must not have any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks." (4-11-06)( )

03. **New Adults in the Home After Certification Is Granted.** A new adult who plans to live in the home must complete a self-declaration form, must be fingerprinted, and must not have any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," before moving into the home. Any adult who is a visitor in the home and leaves within thirty (30) days, ~~is not required to have a criminal history check but must not have unsupervised contact with the resident.~~ (4-11-06)( )

04. **Minor Child Turns Eighteen.** A minor child turning eighteen (18) and living in the home must complete a self-declaration form, must be fingerprinted, and must not have disclosed any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," within thirty (30) days following the month of his eighteenth birthday. (4-11-06)

05. **Substitute Caregiver.** A substitute caregiver must complete a self-declaration form, be fingerprinted, and must not have disclosed any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," prior to any unsupervised contact with the resident. (4-11-06)

06. **Additional Criminal Convictions, Pending Investigations, or Charges.** Once criminal history clearances have been received, the provider must ~~immediately~~ report to the Department any additional criminal convictions, pending investigation or charges for himself, any other adult living in the home or a substitute caregiver as described in Section 210 of these rules. (4-11-06)( )

~~07. **Notice of Pending Investigations or Charges.** Once criminal history clearances have been received, the provider must immediately report to the Department when he, any other adult living in the home, or a substitute caregiver is charged with or under investigation for abuse, neglect or exploitation of any vulnerable adult or child, criminal charges, or when an adult protection or child protection complaint is substantiated.~~ (4-11-06)

**010. DEFINITIONS AND ABBREVIATIONS -- A THROUGH K.**

For the purposes of these rules, the following definitions apply: ( )

**01. Abuse.** A nonaccidental act of sexual, physical or mental mistreatment or injury of the resident through the action or inaction of another individual. (4-11-06)

**02. Activities of Daily Living.** The performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment, including bathing, and washing, dressing, continence and toileting, grooming, eating, communicating, ~~continence, managing money;~~ transferring and mobility, and associated tasks. (4-11-06)( )

**03. Adult.** A person who has attained the age of eighteen (18) years. (4-11-06)

**04. Alternate Caregiver.** A certified family home provider approved by the Department to care for a resident from another certified family home for up to thirty (30) consecutive days when the original provider is temporarily absent or unable to care for the resident. (4-11-06)

**05. Assessment.** The conclusions reached through evaluation of functional and cognitive ability using uniform criteria ~~developed by the Department and relevant councils for determining a person's need for care and services~~ that identifies the resident's strengths, weaknesses, risks and needs, and includes functional needs, medical needs and behavioral needs. (4-11-06)( )

**06. Certificate.** A permit issued by the Department to operate a certified family home. (4-11-06)

**07. Certified Family Home.** A home certified by the Department to provide a family-styled living environment and care to one (1) or two (2) adults; who are ~~unable~~ not able to reside ~~on~~ in their own home and who require care, help with activities of daily living, help with instrumental activities of daily living, protection and security, and need supervision, personal assistance or encouragement toward independence. The certified family home is referred to as "the home" in these rules. (4-11-06)( )

**08. Certified Family Home Care Provider.** The adult member of the certified family home living in the home who is responsible for providing care to the residents and maintaining the home. The certified family home care provider is referred to as "the provider" in ~~this chapter of~~ these rules. (4-11-06)( )

**09. Certifying Agent.** A person acting under the authority of the Department to participate in the certification, inspection, and regulation of a certified family home. ( )

**10. Chemical Restraint.** The use of any medication that results or is intended to result in the modification of behavior for the purposes of discipline or convenience and not required to treat the resident's medical condition or symptoms. (4-11-06)( )

**11. Core Issue.** Abuse, neglect, exploitation, inadequate care, inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system, and situations in which advocates, representatives, and certifying agents are denied access to records, residents, or the home according to their respective authority. ( )

**102. Criminal Offense.** Any crime as defined in Section 18-111, Idaho Code, in 18 U.S.C. Section 4A1.2 (o), and 18 U.S.C. Sections 1001 through 1027. (4-11-06)

**13. Critical Incident.** Any actual or alleged event or situation that creates a significant risk of substantial or serious harm to the physical or mental health, safety or well being of a resident. ( )

~~14.~~ **Department.** The Idaho Department of Health and Welfare. (4-11-06)

~~15.~~ **Director.** The Director of the Idaho Department of Health and Welfare or his designee. (4-11-06)

~~16.~~ **Exploitation.** The misuse of a vulnerable adult's funds, property, or resources by another person for profit or advantage. (4-11-06)



17. Health Care Professional. An individual licensed to provide health care within his respective discipline and scope of practice. ( )

148. Immediate Jeopardy. An immediate or substantial danger to a resident. (4-11-06)

159. Incidental Supervision. Supervision provided by an individual approved by the provider to supervise the resident, not to exceed four (4) hours per week. (4-11-06)

20. Instrumental Activities of Daily Living. The performance of secondary level activities that enable a person to live independently in the community, including preparing meals, accessing transportation, shopping, laundry, money management, housework, medication management, using tools and technology, and other associated tasks. ( )

011. DEFINITIONS AND ABBREVIATIONS -- L THROUGH Z.  
For the purposes of these rules, the following definitions apply: ( )

016. Level of Care. A categorical assessment of the resident's functional ability in any given activity of daily living, instrumental activity of daily living or self-preservation and the degree of care required in the that areas of activities of daily living, supervision, response to emergency situation, mobility, medications and behavior management to sustain the resident in a daily living environment. (4-11-06)( )

1702. Neglect. The failure to provide food, clothing, shelter or medical care to sustain the life and health of a resident. (4-11-06)( )

1803. Negotiated Service Agreement. The agreement between the resident and or his representative, if applicable, and the home provider based on the resident's assessment, physician's health care professional's orders, if any, admission records, if any, and desires of the resident, that outlines services to be provided and the obligations of the home provider and the resident. This agreement is also known as a plan of service. (4-11-06)( )

19. Owner. Any recognized legal entity, governmental unit, or person having legal ownership of the certified family home as a business operation. (4-11-06)

04. Personal Assistance. The provision of care to the resident by the provider of one (1) or more of the following services: ( )

a. Assisting the resident with activities of daily living; ( )

b. Assisting the resident with instrumental activities of daily living; ( )

c. Arranging for supportive services; ( )

d. Being aware of the resident's general whereabouts; and ( )

e. Monitoring the activities of the resident while on the premises of the home to ensure the resident's health, safety and well-being. ( )

205. Plan of Service. The generic term used in these rules to refer to the Negotiated Service Agreement, Personal Care Plan, Plan of Care, Individual Support Plan, Support and Spending Plan, or any other comprehensive service plan. (4-11-06)( )

2106. PRN (Pro Re Nata). A PRN is an abbreviation meaning "when necessary" used for medication or treatment ordered by a medical health care professional to an individual allowing the medication or treatment to be given as needed. (4-11-06)( )

2207. Relative. A person related by birth, adoption, or marriage to the first third degree, and grandparent and grandchild including spouses, parents, children, siblings, grandparents, grandchildren, aunts, uncles, nephews, nieces, great-grandparents, great-grandchildren, great-aunts, great-uncles, and first cousins. (4-11-06)( )

~~2308.~~ **Resident.** An adult who lives in a ~~C~~certified ~~F~~family ~~H~~home and who requires personal assistance or supervision ~~and one (1) or more of the following services: protection, assistance with decision-making and activities of daily living, or direction toward self-care skills.~~ (4-11-06)(    )

~~2409.~~ **Substitute Caregiver.** An ~~individual approved~~ adult designated by the provider to provide care, services and supervision to the resident in the provider's certified family home for up to thirty (30) consecutive days. (4-11-06)(    )

10. Supervision. An administrative activity which provides the following: protection, guidance, knowledge of the resident's whereabouts and monitoring activities. (    )

11. Supportive Services. The specific services that are provided to the resident in the community and that are required by the plan of service or reasonably requested by the resident. (    )

12. Variance. A temporary exception not to exceed twelve (12) months issued by the Department to a certified family home allowing noncompliance with a specific standard required under these rules when the provider has shown good cause for such an exception and the variance does not endanger the health and safety of any resident. (    )

13. Waiver. A permanent exception issued by the Department to a certified family home allowing noncompliance with a specific standard required under these rules when the provider has shown good cause for such an exception and the waiver does not endanger the health and safety of any resident. (    )

011. -- 099. (RESERVED)

**100. CERTIFICATION REQUIREMENTS.**

Certification is required in order to operate a certified family home in the State of Idaho. The Department will issue a certificate to a home provider when all certification requirements are met. (4-11-06)(    )

**01. Certificate Issued in the Name of Provider.** The certificate is issued in the name of the provider applying for certification, and only to the address of the home stated in the application. A new certificate is required if the provider or the location of the certified family home changes. (4-11-06)

**02. Accessibility to the Home.** The home, physical premises, and all records required under these rules, must be accessible at all times to the Department for the purposes of inspection, with or without prior notification. (4-11-06)(    )

**03. Number of Residents in the Home.** A The home cannot be certified for more than two (2) residents. ~~An exception~~ variance may be granted by the Department as described in Section 140 of these rules. (4-11-06)(    )

**04. Certification Limitations.** (4-11-06)

**a.** A home cannot be certified if it also provides room or board to any person who is not a resident or relative of the provider as defined by these rules ~~or a family member~~. A ~~waiver~~ variance may be granted by the Department when the individual receiving room or board is the spouse of the resident and does not require certified family home care or any higher level of care. (4-11-06)(    )

**b.** A home cannot be certified as a certified family home and a children's foster home at the same time, unless a variance is granted by the Department. (4-11-06)(    )

**c.** ~~A certified family home~~ The provider, provider's relatives, and other adults living in the home may not be the legal guardian of ~~any~~ the resident unless the guardian provider, provider's relative, or other adult living in the home is a ~~parent, child, sibling, or grandparent~~ relative of the resident. A variance may be granted by the Department when determined the guardianship is in the best interest of the resident. (4-7-11)(    )

d. The provider may not be absent from the certified family home for more than thirty (30) consecutive days when the home has an admitted resident. Appropriate care and supervision must be provided to the resident in the provider's absence as described in Section 300 of these rules. ( )

e. The provider's primary residence must be the certified family home. ( )

**05. Certification Study Required.** Following receipt of an acceptable application and other required documents, the Department will begin a certification study within thirty (30) days. The certification study, along with the application and other required material, will serve as the basis for issuing or denying a certificate. The study will include the following: (4-11-06)

a. A review of all material submitted; (4-11-06)

b. A ~~scheduled~~ home inspection; (~~4-11-06~~)( )

c. An interview with the proposed provider; (4-11-06)

d. An interview with the provider's family, ~~if~~ relatives, or other members of the household when deemed necessary; (~~4-11-06~~)( )

e. A review of the number, age, and sex of children or other adults in the home to evaluate the appropriateness of a placement to meet the needs of the resident; (4-11-06)

f. A medical or psychological examination of the provider or ~~family~~ other members of the household, if when the Department determines it is necessary; and including a statement from a health care professional that the provider has the ability to provide adequate care to the resident and ensure a safe living environment; (~~4-11-06~~)( )

g. Proof that the provider or provider's spouse is listed on the deed, mortgage, or lease of the home; and ( )

~~gh.~~ Other information necessary to verify that the home is in compliance with these rules. (4-11-06)

**06. Provider Training Requirements.** As a condition of initial certification, ~~all~~ the provider~~s~~ must receive training in the following areas: (~~4-11-06~~)( )

a. Resident rights; (4-11-06)

b. Certification in first aid and adult Cardio-Pulmonary Resuscitation (CPR) which must be kept current and include hands-on skills training; (~~4-11-06~~)( )

c. Emergency procedures; (4-11-06)

d. Fire safety, including use and maintenance of fire extinguishers, ~~and~~ smoke alarms, and carbon monoxide alarms; (~~4-11-06~~)( )

e. Completion of an approved "Assistance with Medications" course available through an Idaho Professional Technical Education Program or other course approved by the Department; and (~~4-11-06~~)( )

f. Complaint investigation~~s~~ and inspection procedures. (~~4-11-06~~)( )

**07. Effect of Previous Revocation or Denial of Certificate or License.** The Department is not required to consider the application of any applicant who has had a health care certificate or license denied or revoked until five (5) years have elapsed from the date of denial or revocation according to Section 39-3525, Idaho Code. (4-11-06)

**101. APPLICATION FOR CERTIFICATION.**

The applicant must apply for certification on forms provided by the Department, pay the application fee, and provide information required by the Department. (3-21-12)

01. **Completed and Signed Application.** A completed application form signed by the applicant. (4-11-06)
02. **Statement to Comply.** A written statement that the applicant has thoroughly read and reviewed this chapter and is prepared to comply with all of its provisions. (4-11-06)
03. **Criminal History and Background Clearance Checks.** Satisfactory evidence that the applicant and all adults living in the home are of reputable and responsible character, including ~~a~~ criminal history ~~clearance and background checks~~ as provided in Section 009 of these rules. (4-11-06)(    )
04. **Statement Disclosing Revocation or Disciplinary Actions.** A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a care provider in Idaho or any other jurisdiction, or a statement from the applicant stating he has never been involved in any such action. (4-11-06)
05. **Electrical Inspection.** A current statement from a licensed electrician or the local/state electrical inspector that all wiring in the home complies with applicable local code. (4-11-06)
06. **Environmental Sanitation Inspection.** If the home is not on a municipal water supply or sewage disposal system, a current statement is needed from the local environmental health agency that the water supply and sewage disposal system meet the legal standards. If the local environmental health agency cannot provide this information, the ~~home applicant~~ must obtain a statement to that effect. In addition, the applicant must provide a signed statement ~~from a person in the business of servicing these systems~~ that the water supply and sewage disposal system are in good working order. (4-11-06)(    )
07. **Proof of Insurance.** Proof of homeowner's or renter's insurance on the ~~applicant's~~ home ~~and the resident's belongings~~. For continued certification, ~~the provider must ensure that~~ insurance ~~must be~~ ~~is~~ kept current. (4-11-06)(    )
08. **List of Individuals Living in the Home.** A list of all individuals living in the home at the time of application and their relationship to the applicant. (4-11-06)
09. **Payment of Application Fee.** Payment of the application fee required in Section 109 of these rules. (3-21-12)
10. **Other Information as Requested.** Other information that may be requested by the Department for the proper administration and enforcement of the provisions of ~~this chapter~~ ~~these rules~~. (4-11-06)(    )
11. **Termination of Application Process.** Failure of the applicant to cooperate with the Department in the application process will result in the termination of the application process. Failure to cooperate means that the information described in Section 101 of these rules is not provided in a timely manner, or not provided in the form requested by the Department, or both. (4-11-06)

102. -- 108. (RESERVED)

109. APPLICATION AND CERTIFICATION FEES FOR CERTIFIED FAMILY HOMES.

01. **Application Fee Amount.** An ~~provider~~ ~~applicant~~ is required to pay to the Department at the time of application a one-time non-refundable application fee of one hundred fifty (\$150) dollars. (3-21-12)(    )
02. **Payment of Application Fees.** ~~The application fee is required for the following:~~ (    )
- a. ~~Upon application to become a certified family home care provider;~~ (    )
- b. ~~When an application is terminated or the home closes, the applicant must pay the application fee again to reapply for certification; or~~ (    )

c. When the home will be operated by a new care provider. ( )

**023.** **Certification Fees.** A The provider is required to pay to the Department a certification fee of twenty-five (\$25) dollars per month. This amount ~~will be~~ is billed to the provider quarterly, and is due and payable within thirty (30) days of date of the invoice. ( )

a. Failure of the provider to pay certification fees when due may cause the Department to take enforcement action described in Section 913 of these rules. ~~(3-21-12)~~( )

b. Monthly certification fees paid in advance for the home, will be refunded when the provider operates the home for less than fifteen (15) days during any given month for which payment was received by the Department. An advanced payment refund may be paid when the provider voluntarily closes the home as provided in Section 115 of these rules, or involuntarily closes the home due to an enforcement remedy imposed by the Department. ( )

#### 110. ISSUANCE OF CERTIFICATE.

**01.** **Certificate.** A certificate is valid for no more than twelve (12) months from the date of approval. The certificate ~~will~~ expires at the end of the stated period unless it is continued in effect by the Department as provided in Subsection 110.03.c. of these rules. ~~(4-11-06)~~( )

a. The initial certificate requires a scheduled home inspection by ~~the Department~~ a certifying agent. ~~(4-11-06)~~( )

b. The certificate is valid only for the location and person named in the application and is not transferable or assignable. ~~(4-11-06)~~( )

c. The certificate must be available at the home upon request. ~~(4-11-06)~~( )

**02.** **Temporary Certificate.** A temporary certificate may be issued to allow time for the provider to meet all certification requirements without a lapse in certification when the provider plans to relocate to a residence within the state and plans to continue operation of a certified family home. A temporary certificate is valid for no more than sixty (60) days from the date of approval. ( )

a. At least thirty (30) days prior to moving into a new residence, the provider must notify the certifying agent for the region in which the new home will be located as listed in Section 005 of these rules. Prior to moving into the new residence, the provider must submit to the certifying agent the following: ( )

i. A completed application form as required in Section 101 of these rules. An application fee is not required for only a change of location of the home; ( )

ii. An electrical inspection for the new residence as required in Section 101 of these rules; ( )

iii. Inspection and approval of any fuel-fired heating system in the new residence as required in Section 600 of these rules; and ( )

iv. Other information requested by the Department to ensure the new residence is appropriate for use as a certified family home and safe for occupation. ( )

b. The Department will issue a temporary certificate upon review and approval of the information required under Subsection 110.02 of this rule. ( )

c. The provider must coordinate with the certifying agent an inspection of the new residence to occur prior to the expiration of the temporary certificate and be prepared to demonstrate compliance with this chapter of rules during the home inspection. ( )

d. The Department will issue a certificate as described in Subsection 110.01 of this rule when it determines that the home is in compliance with these rules. ( )

**023. Provisional Certificate.** A provisional certificate may be issued to ~~a~~ the home as provided in Section 909 of these rules ~~that~~ when it is not in substantial compliance with these rules ~~if~~ and the deficiencies do not adversely affect the health or safety of the resident and are not likely to continue beyond six (6) months. (4-11-06)( )

a. ~~A~~ Provisional certificates may be issued for up to six (6) months and ~~are~~ is contingent on compliance with the conditions for the provisional certificate and implementation of an approved plan to correct all deficiencies prior to the expiration of the provisional certificate. (4-11-06)( )

b. A provisional certificate may be replaced with a certificate when the Department has revisited determined the home is in substantial compliance with these rules prior to the expiration of the provisional certificate ~~and has determined that the home qualifies for a certificate.~~ (4-11-06)( )

c. A certified family home will not be issued more than one (1) provisional certificate in any twelve (12) month period. (4-11-06)( )

**0311. RENEWAL OF CERTIFICATE.**

~~To renew the certificate,~~ The provider must submit a written request on a form provided by the Department to renew the home's certificate at least thirty (30) days prior to the expiration of the existing certificate. The completed renewal application form and any required documentation must be returned to the Department regional certifying agent where the home is located as listed in Section 005 of these rules ~~at least thirty (30) days prior to the expiration of the existing certificate.~~ (4-11-06)( )

**01. Home Inspection.** A home inspection by a certifying agent is required the year after the initial home certification study and at least every twenty-four (24) months thereafter. The home inspection will consist of the elements of the certification study as required in Section 100 of these rules. (4-11-06)( )

**02. Desk Review.** ~~When~~ the Department determines a home inspection is not required to renew the certificate, the Department may conduct a desk review by written notification to the provider. ~~The~~ provider must submit the renewal application to the certifying agent and copies of the following documentation ~~to renew the certificate:~~ (4-11-06)( )

~~i~~a. Current first aid and adult CPR cards; (4-11-06)( )

~~ii~~b. Furnace, well, and fireplace inspection reports, as applicable; (4-11-06)

~~c.~~ Septic system inspection or pumping report, as applicable, when the previous inspection is older than five (5) years; ( )

~~iii~~d. Annual fire extinguisher inspection reports, or sales receipts for fire extinguishers in compliance with Section 600 of these rules that are less than twelve (12) months old; (4-11-06)( )

~~iv~~e. ~~Fire~~ Log of smoke detector checks and carbon monoxide alarm tests, fire extinguisher ~~checks~~ examinations, emergency plan reviews, and fire drill and evacuation summaries; (4-11-06)( )

~~v~~f. Training logs; (4-11-06)

~~vi~~g. List of individuals currently living in the home and individuals who moved in and out of the home during the year; (4-11-06)

~~h.~~ Proof that the provider or provider's spouse is listed on the deed, mortgage, or lease of the home; ( )

~~vii~~i. Proof of homeowner's or renter's insurance; (4-11-06)

~~viii.~~ Request for a waiver, or variance, or renewal of waiver and a variance that meets the requirements in Sections 120 through 140 of these rules as applicable; and (4-11-06)(    )

~~ix.~~ Other information as requested by the Department. (4-11-06)

~~e03.~~ **Validity of Existing Certificate.** The existing certificate, unless suspended or revoked, remains valid until the Department has acted on the renewal application renewal when the renewal application and supporting documentation is filed in a timely manner with the certifying agent. (4-11-06)(    )

**04112. CHANGE OF OWNERSHIP PROVIDER CERTIFICATION REQUIREMENTS OR LOCATION.**

~~01.~~ **Change of Provider.** Certificates are not transferable or assignable from one (1) individual to another or from one (1) location to another. The home must be recertified using the same procedure as a new home that has never been certified when a change of ownership, lease, or location care provider occurs. (4-11-06)(    )

~~02.~~ **Change of Location.** Certificates are not transferable or assignable from one (1) location to another. When a change of location occurs, the provider's new home must be: (    )

~~a.~~ Certified using the same procedure as required in Section 100 of these rules for a new home that has never been certified; or (    )

~~b.~~ Temporarily certified by the procedure described in Section 110 of these rules. (    )

**05113. DENIAL OF APPLICATION FOR CERTIFICATE.**

The Department may deny the application for issuance of a certificate when conditions exist that endanger the health, safety, or welfare of any resident or when the home is not in substantial compliance with these rules. Additional causes for denial of an application for a certificate include the following: (4-11-06)(    )

~~#01.~~ **False or Incomplete Information.** The applicant or provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; (4-11-06)(    )

~~#02.~~ **Convictions.** The applicant or provider has been convicted of fraud, gross negligence, abuse, assault, battery or exploitation; (4-11-06)(    )

~~e03.~~ **Other Criminal Offense.** The applicant or provider has been convicted of a criminal offense within the past five (5) years, other than a minor traffic violation or similar minor offense; (4-11-06)(    )

~~#04.~~ **Denial or Revocation of Health Care License.** The applicant or provider has been denied or has had revoked any health facility license, residential care or assisted living facility license, or certified family home certificate; (4-11-06)(    )

~~e05.~~ **Operation Without a License.** The applicant or provider has been convicted of operating found to have operated a health facility, residential care or assisted living facility, or certified family home without a license or certificate; (4-11-06)(    )

~~f06.~~ **Court Ordered.** A court has ordered that the applicant or provider must not operate a health facility, residential care or assisted living facility, or certified family home; (4-11-06)(    )

~~g07.~~ **Registries or Exclusion List.** The applicant or provider is listed on the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, or Medicaid exclusion lists; or (4-11-06)(    )

~~#08.~~ **Control or Influence.** The applicant or provider is directly under the control or influence of any person who is described in Subsections 110.05.a. through 110.05.g. 113.01 through 113.07 of these this rules. (4-11-06)(    )

~~06.~~ **Revocation of Certificate.** *The Department may revoke any certificate when conditions exist which endanger the health, safety, or welfare of any resident, or when the home is not in substantial compliance with these rules as described in Section 913 of these rules.* (4-11-06)

**079. Procedure for Appeal of Denial ~~or Revocation~~ of a Certificate. (4-11-06)( )**

a. Immediately upon denial of any application for a certificate, ~~or revocation of a certificate~~, the Department will notify the applicant or provider in writing by certified mail or by personal service of its decision, the reason for its decision, and how to appeal the decision. (4-11-06)( )

b. The appeal is subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (4-11-06)

**08114. FAMILY HOME OPERATING WITHOUT A CERTIFICATE.**

**01. Operating Without Certificate.** A person found to be operating a family home without first obtaining a certificate may be referred for criminal prosecution. ( )

**02. Placement or Transfer of Resident.** Upon discovery of a family home operating without a certificate, the Department ~~will refer~~ may transfer residents to the appropriate placements or refer to adult protective services agency ~~if when~~: (4-11-06)( )

a. There is an immediate threat to any resident's health and safety; or (4-11-06)

b. The individual operating the home does not cooperate with the Department to apply for certification, meet certification standards and obtain a valid certificate. (4-11-06)( )

**~~111. -- 114. (RESERVED)~~**

**115. VOLUNTARY CLOSURE OF THE HOME.**

When choosing to voluntarily close the home, the provider must provide written notice to the certifying agent in the region where the home is located as listed in Section 005 of these rules. The notification must include the following: ( )

**01. Date of Notification.** ( )

**02. Provider's Certificate.** A copy of the certificate, or information from the certificate that includes: ( )

a. Provider's name; ( )

b. Address of the home; and ( )

c. Certificate number. ( )

**03. Closure Date.** The written notice must include the planned closure date. The Department will not refund or prorate prepaid funds on retroactive closures. ( )

**04. Discharge Plans.** If applicable, discharge plans for current residents must accompany the written notice. ( )

**1156. REQUIRED ONGOING TRAINING.**

~~All The~~ providers must document a minimum of eight (8) hours per year of ongoing, relevant training in the provision of supervision, services, and care. ~~The training must consist of at least four (4) hours of classroom training. The remaining four (4) hours may be independent study or classroom training. Up to two (2) hours of ongoing first aid or CPR will count toward the eight (8) hour requirement. The initial provider training required in Subsection 100.06 of these rules will count toward the first year's eight (8) hour training requirement.~~ (4-11-06)( )

**01. Initial Provider Training.** The initial provider training required in Section 100 of these rules satisfies the eight (8) hour training requirement for the first year of certification. ( )



**02. Type of Training.** ( )

**a.** Interactive training means the provider is able to ask questions of a live instructor and receive answers in real time. The instructor must be a professional or a recognized authority in his subject matter. At least half of the required ongoing training hours each year must consist of interactive training. ( )

**b.** Independent study means any training not provided by a live instructor. The remaining required training hours may be independent study through books, articles, videos, online courses, and other resources. ( )

**03. Content of Training.** ( )

**a.** Resident specific. At least half of the required ongoing training hours each year must be devoted to the specific conditions, diagnoses and needs of admitted residents, when residents are admitted. ( )

**b.** General topics. The remaining hours may be devoted to other topics related to care giving, health or safety. Up to two (2) hours of first aid or adult CPR training will count toward the annual requirement. ( )

**04. Documentation of Training.** The provider must provide documentation of training. The documentation must include: ( )

**a.** Topic of the training with a brief description; ( )

**b.** Source of training, including instructor or author; ( )

**c.** Number of hours; ( )

**d.** Type and content of training; ( )

**i.** Interactive or independent; and ( )

**ii.** Resident specific or general. ( )

**1167. -- 119. (RESERVED)**

**120. WAIVERS.**

The Department may grant permanent waivers. The decision to grant a waiver in one (1) for a home or provider is not a precedent or applicable to any other home or provider and has no force of effect in any other proceeding. (4-11-06)( )

**01. Written Request.** A The provider must submit a written request for a waiver ~~must be submitted~~ to the ~~Department~~ regional certifying agent where the home is located as listed in Section 005 of these rules prior to any planned noncompliance with any rule under this chapter. The appropriateness of granting a waiver is determined by the Department. The request must include the following: (4-11-06)( )

**a.** Reference to the section of the rules for which the waiver is requested; (4-11-06)

**b.** Reasons that show good cause why the for granting the waiver should be granted, including any extenuating circumstances and any compensating factors or conditions that may have bearing on the waiver, such as additional floor space or additional staffing; and (4-11-06)( )

**c.** Written documentation A signed statement from the provider that assures the resident's health and safety will not be jeopardized if the waiver is granted. The statement must include an agreement to implement any special conditions the Department requires. (4-11-06)( )

**02. Waiver Expiration Special Conditions.** A When granting a waiver ~~may be granted for a period of no more than twelve (12) months~~, the Department may require the provider to meet special conditions while the waiver is in effect to ensure the health and safety of residents. (4-11-06)( )

~~03. **Waiver Renewal.** If the provider wishes to renew a waiver, he must submit a written request to the Department. The appropriateness of renewing a waiver will be determined by the Department. (4-11-06)~~

**043. Waiver Not Transferable.** A waiver granted under Section 120 of this rule is not transferable to any other provider, address home, or resident. (4-11-06)( )

**121. GENERAL VARIANCES.**

The Department may grant temporary variances that may be effective for up to twelve (12) months at a time. The decision to grant a variance for a home or provider is not a precedent or applicable to any other home or provider and has no force of effect in any other proceeding. ( )

**01. Written Request.** The provider must submit a written request for a variance to the regional certifying agent where the home is located as listed in Section 005 of these rules prior to any planned noncompliance with any rule under this chapter. The appropriateness of granting a variance is determined by the Department. The request must include the following: ( )

**a.** Reference to the section of the rules for which the variance is requested; ( )

**b.** Reasons that show good cause for granting the variance, including any extenuating circumstances and any compensating factors or conditions that may have bearing on the variance, such as additional floor space or additional staffing; and ( )

**c.** A signed statement from the provider that assures resident health and safety will not be jeopardized if the variance is granted, including an agreement to implement any special conditions the Department may require. ( )

**02. Special Conditions.** When granting a variance, the Department may require the provider to meet special conditions while the variance is in effect to ensure the health and safety of residents. ( )

**03. Variance Renewal.** To renew a variance, the provider must submit a written request to the regional certifying agent where the home is located as listed in Section 005 of these rules at least thirty (30) days prior to expiration of the variance. The request for renewal must include items required in Subsection 121.01 of this rule. The appropriateness of renewing a variance is determined by the Department. ( )

**04. Variance Not Transferable.** A variance granted under Section 121 of this rule is not transferable to any other provider, home, or resident. ( )

**122. REVOKING A WAIVER OR VARIANCE.**

The Department may revoke a waiver or variance. ( )

**01. Causes for Revocation.** Revocation of a waiver or variance may occur when: ( )

**a.** The provider has not met the special conditions associated with granting the exception; ( )

**b.** Conditions within the home have changed such that an exception is no longer prudent; or ( )

**c.** The health and safety of residents have otherwise been compromised. ( )

**02. Written Notice.** The Department will provide written notice to the provider when a waiver or variance is revoked, including the reason for the revocation. ( )

**03. Time Frame to Comply.** The provider must comply with the rule for which the waiver or variance is revoked according to the following time frames: ( )

**a.** Immediately upon notification, when there is a threat to the life or safety of residents; or ( )

**b.** Within thirty (30) days of notification, when there is no threat to the life or safety of residents. ( )

1243. -- 129. (RESERVED)

130. NURSING FACILITY LEVEL OF CARE ~~WAIVER REQUIREMENTS~~ **VARIANCE.**

A certified family home may care for one (1) resident who requires nursing facility level of care as defined in Section 39-1301(b), Idaho Code, without obtaining a waiver variance. A home seeking to provide care to two (2) residents who require nursing facility level of care must request a waiver variance in writing from the Department as required in Section 39-3554, Idaho Code Section 121 of these rules. (4-11-06)(    )

01. **Conditions for a Waiver Variance.** The Department ~~will~~may issue a written waiver variance permitting the arrangement when: (4-11-06)(    )

- a. Each of the residents provides a written statement to the Department requesting the arrangement; (4-11-06)
- b. Each of the residents making the request is competent, informed, and has not been coerced; (4-11-06)
- c. The Department finds the arrangement safe and effective. (4-11-06)

02. **Revoking a Waiver Variance.** The Department will revoke the waiver variance when: (4-11-06)(    )

- a. There is a threat to the life or safety of either resident; (4-11-06)
- b. One (1) of the residents leaves the home permanently; (4-11-06)
- c. One (1) of the residents notifies the Department in writing that he does not wish to live in the home with the other resident; or (4-11-06)
- d. The Department finds the arrangement is no longer safe and effective. (4-11-06)

03. **Waiver Variance Not Transferable.** A waiver variance granted under Subsection 130.01 of this rule is not transferable to any other provider, address home, or resident. (4-11-06)(    )

131. -- 139. (RESERVED)

140. ~~EXCEPTION~~ **VARIANCE TO THE TWO RESIDENT LIMIT.**

01. **Application for Exception Variance.** ~~A home~~ The provider may apply to the Department for a exception variance to the two (2) resident limit in order to care for three (3) or four (4) residents on a per resident basis prior to any new admissions. (4-11-06)(    )

02. **Criteria for Determination.** The Department will determine if safe and appropriate care can be provided based on residents' needs. The Department will consider, at a minimum, the following factors in making its determination: (4-11-06)(    )

- a. Each current or prospective resident's physical, mental and behavioral status and history; (4-11-06)
- b. The household composition including the number of adults, children and other family members requiring care from the provider; (4-11-06)
- c. The training, education, and experience of the provider to meet each resident's needs; (4-11-06)
- d. Potential barriers that might limit resident safe access to and exit from the rooms in egress from and ingress to the home; (4-11-06)(    )
- e. The number and qualifications of care givers in the home; (4-11-06)

- f. The desires of the prospective and current residents; (4-11-06)
- g. The individual and collective hours of care needed by the residents; (4-11-06)
- h. The physical layout of the home and the square footage available to meet the needs of all persons living in the home; and (4-11-06)
- i. If an ~~an exception variance~~ to the two (2) resident limit would result in two (2) or more residents who require nursing facility level of care living in the home, then the application for the variance must also include the information required in Section 130 of these rules. ~~(4-11-06)~~( )

**03. Other Employment.** ~~A Provider of who is granted a variance to admit~~ three (3) or four (4) ~~bed homes residents~~ must not have other gainful employment outside the home unless: ~~(4-11-06)~~( )

- a. The total direct care time for all residents, as reflected by their plans of service and assessments or, if not indicated by these documents for a publicly-funded program, the time that the program bases its payment, does not exceed eight (8) hours per day; ~~(4-11-06)~~( )
- b. The provider is immediately available to meet resident needs as they arise; and (4-11-06)
- c. Each resident is supervised at all times unless the assessment or plan of service indicates the resident may be left unattended for designated periods of time. (4-11-06)

**04. Additional Training.** ~~A Provider of who is granted a variance to admit~~ three (3) or four (4) ~~bed homes residents~~ must obtain additional training to meet the needs of the residents as ~~determined necessary by the Department.~~ follows: ~~(4-11-06)~~( )

- a. A provider who cares for three (3) residents must obtain twelve (12) hours per year of ongoing relevant training as required in Section 116 of these rules. ( )
- b. A provider who cares for four (4) residents must obtain sixteen (16) hours per year of ongoing relevant training as required in Section 116 of these rules. ( )

**05. Exception Variance Nontransferable.** An ~~exception variance~~ to care for more than two (2) residents ~~will is~~ not ~~be~~ transferable to another provider, ~~address~~ home, or resident. ~~(4-11-06)~~( )

**06. Reassessment of Exception Variance.** An ~~exception variance~~ to care for more than two (2) residents must be reassessed at least annually and when either of the following occurs: ~~(4-11-06)~~( )

- a. Each time a new admission is considered; or (4-11-06)
- b. When there is a significant change in any of the factors specified in Subsection 140.02 of ~~these~~ this rules. ~~(4-11-06)~~( )

**07. Annual Home Inspection.** A certified family home with an ~~an exception variance~~ to care for more than two (2) residents must have a home inspection by a certifying agent at least annually. ~~(4-11-06)~~( )

**08. Shared Sleeping Rooms.** In addition to the requirements in Section 700 of these rules, no more than two (2) residents will be housed in any multi-bed sleeping room. (4-11-06)

**09. Fire Drill Frequency.** A provider who is granted a variance to admit three (3) or four (4) residents must conduct fire drills as described in Section 600 of these rules, except the frequency of the fire drills must be at least monthly. ( )

141. -- 149. (RESERVED)

150. INSPECTIONS OF HOMES.

The Department will inspect each certified family homes at least every twenty-four (24) months, ~~beginning with~~ calculated from the first month of the most recent certification. Inspections may occur more frequently as the Department deems necessary. The Department may consider the results of previous inspections, history of compliance with rules, and complaints to determine the frequency of inspections. (4-11-06)(    )

01. **Notice of Inspection.** All inspections ~~and investigations~~, except for the initial certification study, may be made unannounced and without prior notice. (4-11-06)(    )

02. **Inspection by Department or ~~Its~~ Certifying Agent.** The Department may use the services of any legally qualified person or organization, either public or private, to examine and inspect any home requesting certification. The inspector has the authority to have full access to the home and the authority to: (4-11-06)(    )

03a. **Access by Inspector.** ~~An inspector must have full access and authority to e~~Examine quality of care and services delivery;: (    )

b. Examine home records, resident records, ~~records including and~~ any records or documents pertaining to any financial transactions between residents and the home, including resident accounts;: (    )

c. Examine the physical premises, including the condition of the home, grounds and equipment, food service, water supply, sanitation, maintenance, and housekeeping practices, ~~and~~;: (    )

d. Examine any other areas necessary to determine compliance with these rules and standards;: (4-11-06)(    )

ae. An inspector has the authority to iInterview the provider, any adults living in the home, the resident and the resident's family, substitute caregivers, persons who provide incidental supervision, and any other person who is familiar with the home or its operation. Interviews with residents ~~will be~~ are confidential and conducted privately unless otherwise specified by the resident;: and (4-11-06)(    )

bf. The inspector has full authority to iInspect the entire home, ~~accompanied by the provider~~, including the personal living quarters of family members living in the home of the household, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on the operation of the certified family home. The provider, substitute caregiver, or any other adult living in the home may accompany the inspector. (4-11-06)(    )

043. **Written Report Statement of Deficiencies.** ~~Following any~~ When violations of these rules are identified through the course of an investigation or inspection, depending on the severity, the Department ~~will provide a written report~~ may send a statement of deficiencies to the provider ~~of the home~~ within thirty (30) days of the completed inspection or investigation. The report statement of deficiencies will include the findings of the investigation or inspection and any rules the home was found to have violated. (4-11-06)(    )

054. **Plan of Correction.** ~~If~~ When a statement of deficiencies ~~are identified during the investigation or inspection~~ is issued, the home provider ~~will be sent a statement of deficiencies which requires~~ must develop a plan of correction and submit it to the Department for review and approval. (4-11-06)(    )

a. Depending on the severity of the deficiency, the home provider may be given up to fourteen (14) calendar days to develop a written plan of correction and to return the plan of correction to the Department regional certifying agent where the home is located as listed in Section 005 of these rules. (4-11-06)(    )

b. An acceptable plan of correction must include;: (    )

i. How the each deficiency identified in the statement of deficiencies was corrected or how it will be corrected;: (    )

ii. What steps have been taken to assure that the deficiency does not recur, ~~and~~;: (    )

~~iii.~~ ~~Acceptable time frames for correction of the deficiency;~~ ~~and~~ (4-11-06)( )

~~iv.~~ ~~Signature of the provider.~~ ( )

c. Follow-up inspections may be conducted to determine whether corrections to deficiencies are being made according to ~~time frames established in~~ the ~~Department approved~~ plan of correction. (4-11-06)( )

d. The Department may provide consulting services to ~~a home~~ ~~the provider~~, upon request, to assist in identifying and correcting deficiencies and upgrading the quality of care ~~in the home~~. (4-11-06)( )

~~05.~~ ~~List of Deficiencies. A current list of deficiencies, including plans of correction, are available to the public upon request at the home or by written request to the Department according to Section 006 of these rules.~~ ( )

151. -- 159. (RESERVED)

160. COMPLAINT PROCEDURE.

Any person who believes that any rule ~~in this chapter~~ has been violated by a ~~certified family~~ home may file a complaint with the Department ~~at the address as~~ listed in Section 005 of these rules ~~or at the Department's Regional Office~~. (4-11-06)( )

01. Investigation. ( )

a. The Department will investigate any complaint alleging a violation of these rules. Any complaint involving ~~the~~ abuse, neglect, or exploitation of an adult ~~must will~~ also be referred to adult protective services ~~in accordance with~~ ~~according to the Adult Abuse, Neglect, and Exploitation Act~~, Section 39-5303, Idaho Code. (4-11-06)( )

b. ~~The Department will investigate or cause to be investigated any reported critical incident affecting health and safety or change in a resident's condition, including the death of a resident, which indicates there was a violation of these rules.~~ ( )

02. Investigation Method. The nature of the complaint will determine the method used to investigate the complaint. On-site investigations at the home ~~may can~~ be unannounced ~~and without prior notice~~. (4-11-06)( )

03. ~~Written Report. Following completion of an investigation, the Department will provide a written report to the provider within thirty (30) days. The report will include the findings of the investigation.~~ ( )

034. ~~Statement of Deficiencies. If~~ ~~When~~ violations of these rules are identified ~~through the course of an investigation~~, depending on the severity, the Department may send the home a statement of deficiencies ~~described in Section 150 of these rules~~. The ~~home provider~~ must prepare ~~and submit~~ a plan of correction ~~as~~ described in ~~Subsection 150 of these rules, and return it to the Department within the time frame designated by the Department~~. (4-11-06)( )

045. ~~Public Disclosure~~. Information received by the Department through filed reports, inspections, or as otherwise authorized under the law, must not be disclosed publicly in such a manner as to identify individual residents except in a proceeding involving a question of certification. (4-11-06)( )

~~05.~~ ~~List of Deficiencies. A current list of deficiencies including plans of correction will be available to the public upon request in the individual homes or by written request to the Department.~~ (4-11-06)

161. -- 169. (RESERVED)

170. ~~ELEMENTS~~ ~~MINIMUM STANDARDS~~ OF CARE.

~~As a condition of certification,~~ ~~The home provider~~ must ~~provide~~ ~~adequately care for~~ each ~~of the following to the resident~~ ~~without additional charge~~: ~~as follows~~: (4-11-06)( )

**01. Plan of Service.** Provide the services required to meet the terms of the resident's plan of service as described in Section 250 of these rules, including development and implementation of the plan of service for private-pay residents and implementation of the plan of service for publicly-funded residents. ( )

**02. Supervision.** Provide appropriate, and adequate supervision for twenty-four (24) hours each day unless according to the resident's plan of service provides for alone time. (4-11-06)( )

**03. Daily Living Activities and Recreation.** ~~Daily activities, recreational activities, maintenance of self-help skills, assistance with~~ Provide assistance to the resident at the level of care indicated on the resident's plan of service in the areas of activities of daily living and ~~provisions for trips to social functions, special diets, and arrangements for payments~~ instrumental activities of daily living. (4-11-06)( )

~~03. Medical. Arrangements for medical and dental services and monitoring of medications. If the resident is unable to give medical consent, the provider will give the name and contact information of the person holding guardianship or power of attorney for health care to any health care provider upon request. (4-11-06)~~

~~04. Furnishings and Equipment. Linens, towels, wash cloths, a reasonable supply of soap, shampoo, toilet paper, sanitary napkins or tampons, first aid supplies, shaving supplies, laundering of linens, housekeeping service, maintenance, and basic television in common areas. In addition, the following will apply: (4-11-06)~~

~~a. Resident living rooms must contain reading lamps, tables, and comfortable chairs or sofas; (4-11-06)~~

~~b. The resident must be provided with his own bed which must be at least thirty six (36) inches wide, substantially constructed, and in good repair. Roll-away type beds, cots, folding beds, or double bunks must not be used. The bed must be provided with springs which are in good repair, a clean and comfortable mattress which is standard for the bed, and a pillow; (4-11-06)~~

~~c. The resident sleeping room must be equipped with a chair and dresser, substantially constructed and in good repair; (4-11-06)~~

~~d. On request, each sleeping room must be equipped with a lockable storage cabinet for personal items for each resident, in addition to the required storage in resident sleeping rooms; (4-11-06)~~

~~e. Adequate and satisfactory equipment and supplies must be provided to serve the residents. The amount and kind will vary according to the size of the home and type of resident; and (4-11-06)~~

~~f. A monitoring or communication system must be provided when necessary due to the size or design of the home. (4-11-06)~~

~~05. Plan of Service. Development and implementation of the plan of service for private pay residents and implementation of the plan of service for state funded residents. (4-11-06)~~

~~06. Activity Supplies. Activity supplies in reasonable amounts, that reflect the interests of the resident. (4-11-06)~~

~~07. Transportation. Arrangement of transportation in reasonable amounts to community, recreational and religious activities within twenty five (25) miles of the home. The home must also arrange for emergency transportation. (4-11-06)~~

**04. Medication Management.** Provide assistance and monitoring of medications as described in Sections 400 through 402 of these rules, as applicable. ( )

**05. Emergency Services.** Provide immediate and appropriate interventions on behalf of the resident in response to an emergency, including the following: ( )

**a. Developing plans in advance of an emergency as described in Section 600 of these rules and**

executing those plans when necessary: ( )

b. Evacuating the resident from the home: ( )

c. Providing first aid to the resident when seriously injured: ( )

d. Administering CPR to the resident unless the resident has an order not to resuscitate: ( )

e. Arranging for emergency transportation; and ( )

f. Contacting 9-1-1 for involvement of law enforcement officers or the fire department when necessary for the protection of the resident. ( )

**06. Supportive Services.** Coordinate paid services for the resident outside the home, including: ( )

a. Medical appointments; ( )

b. Dental appointments; ( )

c. Other services in the community as identified in the plan of service or reasonably requested by the resident; and ( )

d. Arrange transportation to the service location and return to the home. ( )

**07. Resident Rights.** Protect the resident's rights as listed in Section 200 of these rules. ( )

**08. Safe Living Environment.** Provide a physical living environment that complies with Sections 500 through 710 of these rules. ( )

171. -- 174. (RESERVED)

**174. ACTIVITIES AND COMMUNITY INTEGRATION.**

Section 39-3501, Idaho Code, requires that a certified family home provide a homelike, family-styled living environment with a focus on integrated community living. The provider must offer the following: ( )

**01. Activities.** Recreational activities, provisions for trips to social functions, and daily activities. ( )

**02. Activity Supplies.** Activity supplies in reasonable amounts, that reflect the interests of the resident. ( )

**03. Transportation.** Arrangement of transportation to and from community, recreational, and religious activities within twenty-five (25) miles of the home when requested by the resident at least twenty-four (24) hours in advance. ( )

**175. ROOM, UTILITIES AND MEALS.**

The home must provide room, utilities and three (3) daily meals to the resident. The charge for room, utilities and three (3) daily meals must be established in the admission agreement. The following are included in the charge for room, utilities and meals: (4-11-06) ( )

**01. Sleeping Room.** The resident sleeping room must meet the requirements of Section 700 of these rules, must be equipped with a dresser, and when requested by the resident a chair, that are both substantially constructed and in good repair. ( )

**02. Bed.** The resident must be provided with his own bed that is at least thirty-six (36) inches wide, substantially constructed, and in good repair. Roll-away type beds, cots, folding beds, or double bunks must not be used. The bed must have box springs kept in good repair, a clean and comfortable mattress, bedspread, sheets and pillow cases, and pillow that are standard for the size of the bed. ( )



03. Monitoring or Communication System. A monitoring or communication system must be provided when necessary due to the size or design of the home or the needs of the resident. The provider must hold a written agreement with the resident or resident's representative prior to using a monitoring system that may violate the resident's right to privacy. ( )

04. Secure Storage. On request, each sleeping room must be equipped with a lockable storage cabinet for personal items for each resident, in addition to the required storage in resident sleeping rooms. ( )

05. Bathroom. Access to bathing and toilet facilities that meet the requirements of Section 700 of these rules. ( )

06. Common Areas. Access to a common living area that contains reading lamps, tables, comfortable chairs or sofas, and basic television. The resident must be allowed to eat with the other members of the household if he so chooses. ( )

07. Supplies. Bath and hand towels; wash cloths; a reasonable supply of soap, shampoo, toilet paper, and facial tissue; and first aid supplies. ( )

08. Housekeeping Service. Housekeeping and maintenance as required in Section 500 of these rules, including laundering of linens and clothing. ( )

09. Water. Potable water that meets the requirements of Section 500 of these rules. ( )

10. Sewer. A sewage disposal system that meets the requirements of Section 500 of these rules. ( )

11. Trash. Disposal of garbage that meets the requirement of Section 500 of these rules. ( )

12. Heating and Cooling. Sufficient heating and cooling to meet the requirements of Section 700 of these rules. ( )

13. Electricity. Sufficient electricity to power common household and personal devices. ( )

14. Telephone. Access to a telephone that meets the requirements of Section 700 of these rules. ( )

15. Meals. The provider must offer breakfast, lunch, and dinner to the resident. ( )

a. Food must be prepared in safe and sanitary methods that conserve nutritional value, flavor and appearance, when prepared by the provider or other member of the household. ( )

b. Meals offered by the home must meet the dietary requirements or restrictions of the resident when so ordered by a health care professional. ( )

176. -- ~~179.~~ (RESERVED)

**180. HOURLY ADULT CARE.**

Hourly adult care, also referred to as adult day health, is a supervised, structured, paid service that may be provided in the home for up to fourteen (14) hours in any twenty-four (24) hour period to adult participants who are not residents of the home. Hourly adult care encompasses health and social services, recreation, supervision, and assistance with activities of daily living needed to ensure the optimal functioning of the participant. The standards in this section do not apply if the service does not include a payment component to the provider, or the hourly adult care participant is a relative of the provider whose care is not publicly funded. Hourly adult care may be offered in the home when the following requirements are met: ( )

01. Participants. No individual will be admitted to the home for hourly adult care who requires ongoing skilled nursing care or for whom the provider cannot adequately provide services and supervision. ( )

02. Records. All records of services delivered by the provider must be maintained in the home for at

least five (5) years from the date of service. ( )

**03. Enrollment Contract.** The provider maintains an enrollment contract with each hourly adult care participant that contains the following: ( )

**a.** Full name of the participant; ( )

**b.** The participant's date of birth; ( )

**c.** Primary address of the participant; ( )

**d.** Names and telephone numbers of the participant's responsible party and other emergency contacts; ( )

**e.** Name and telephone number of the participant's primary physician; ( )

**f.** List of medications, diets, allergies, services, and treatments prescribed for the participant and other pertinent health information regarding the participant's needs; ( )

**g.** Services the provider must provide to the participant while in the home, which may include: activities, meals, supervision, assistance with medications, and assistance with activities of daily living, and the level of care required for each service; ( )

**h.** The rate charged by the provider for hourly adult care services if the participant is private pay; ( )

**i.** The number of days the provider will give written notice to the participant's primary contact in advance of terminating the enrollment contract; ( )

**j.** The date on which hourly adult day services will commence; and ( )

**k.** The printed name, signature, and contact information of the individual who completed the enrollment contract and the provider's printed name, signature, and contact information. Upon entering into the contract, a copy of the enrollment information must be provided to each party. ( )

**04. Service Logs.** Service logs that identify, on a per day basis when hourly adult care services are provided in the home, the name of each participant who received services, the times of arrival to and departure from the home for each participant, and the names of staff who provided services and their arrival and departure times. ( )

**05. Space and Accommodations.** The provider must only accept hourly adult care participants for whom the home can provide reasonable accommodations. The home must provide the following for hourly adult care participants: ( )

**a.** Seating on cushioned chairs or sofas positioned at least thirty-two (32) inches apart in common living areas such that all residents and participants in the home may comfortably enjoy the space; ( )

**b.** A rest area away from the common living areas to permit privacy and to isolate participants who become ill or require rest and is equipped with furniture for napping, such as a bed, lounge chair, couch, or recliner; ( )

**c.** Access to a bathroom that meets the requirements of Section 700 of these rules; and ( )

**d.** When caring for participants with physical or sensory impairments, a physical environment that meets the requirements of Section 700 of these rules, as applicable. ( )

**06. Resident's Personal Space.** The personal living space of the resident, including his sleeping room

and on-suite bathroom, if equipped, must not be used by hourly adult care participants at any time. ( )

**07. Staffing.** The provider must only accept hourly adult care participants for whom he can safely provide the level and types of service required. The provider must ensure that all staff providing hourly adult care services have been sufficiently trained in and follow universal infection control precautions and each participant's specific care plan as documented in the enrollment contract. In addition: ( )

**a.** Each caregiver providing hourly adult care services must meet the qualifications of a substitute caregiver as described under Section 300 of these rules. ( )

**b.** The provider must employ sufficient staff to assure safe and proper care for both residents and hourly adult care participants. Staffing must be based on: ( )

**i.** The functional and cognitive status of each hourly adult care participant and resident; ( )

**ii.** The size and layout of the home; and ( )

**iii.** Staffing ratios must not fall below one (1) caregiver to four (4) residents and hourly adult care participants, combined. ( )

**08. Medications.** Assistance with medications to hourly adult care participants must meet the requirements in Sections 400 through 402 of these rules. ( )

**a.** The provider is responsible for safeguarding the participant's medications while the participant is receiving services at the home. ( )

**b.** The participant's medications must not be stored at the home during hours in which the participant is not receiving hourly adult care services at the home. ( )

**09. Fire and Life Safety.** The provider must ensure the home adheres to fire and life safety standards described in Section 600 of these rules. For fire and life safety purposes, the hourly adult care participant is counted as a "resident" when that term is used in Section 600 of these rules. When offering hourly adult care, the provider must: ( )

**a.** Prohibit smoking or unsupervised smoking in accordance with Section 600 of these rules. ( )

**b.** Review emergency preparedness plans as required under Section 600 of these rules with the individual who completed the enrollment contract and provide a written copy of the plans to that individual. ( )

**c.** Conduct fire drills as required in Section 600 of these rules, except that the frequency of the drills must be at least monthly. ( )

**181. -- 199. (RESERVED)**

**200. RESIDENT RIGHTS POLICY.**

~~Each certified family home will develop and implement a written resident rights policy which will~~ The provider must possess, annually review, and implement a written policy designed to protect and promote the rights of each resident as provided in this section. The written ~~description of legal~~ resident rights ~~policy~~ must include ~~a description of the protection of personal funds and~~ a statement that ~~a the~~ resident ~~or any other individual~~ may file a complaint with the Department at the address as described in Section 005 160 of these rules, ~~or local Regional Office regarding resident abuse and neglect and misappropriation of resident property in the home~~ when he believes that any resident's right has been violated. Resident rights policies must include the following: (4-11-06)( )

**01. Privacy.** Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits and meetings of family and resident groups, including: (4-11-06)

a. The right to send and receive mail unopened, either by postal service, electronically, or by other means, unless the resident's plan of service specifically calls for the provider to monitor the correspondence in order to protect the resident from abuse or exploitation; (4-11-06)( )

b. If the resident is married, privacy for visits by his spouse. If both are residents in the home, they are permitted to share a room unless medically inadvisable, as documented by the attending physician-resident's health care professional; (4-11-06)( )

c. The right to control the use of pictures and videos containing the resident's image. ( )

02. **Humane Care.** Each resident has the right to humane care and a humane environment, including the following: (4-11-06)

a. The right to a diet which is consistent with any religious or health-related restrictions; (4-11-06)

b. The right to refuse a restricted diet; ~~and~~ (4-11-06)( )

c. The right to a safe and sanitary living environment; and (4-11-06)( )

d. The right to an environment free of illicit drug use or possession and other criminal activities. ( )

03. **Respectful Treatment.** Each resident has the right to be treated with dignity and respect, including: (4-11-06)

a. The right to be treated in a courteous manner by the provider and other individuals in the home; (4-11-06)( )

b. The right to receive a response from the home provider to any request of the resident within a reasonable time; (4-11-06)( )

c. Freedom from discrimination on the basis of race, color, national origin, sex, religion, age, disability, or veteran status; ~~and~~ (4-11-06)( )

d. Freedom from intimidation, manipulation, and coercion, ~~and exploitation;~~ (4-11-06)( )

e. The right to wear his own clothing; and (4-11-06)( )

f. The right to determine his own dress and hair style; (4-11-06)( )

04. **Basic Needs Allowance.** ~~Each R~~residents whose care is paid for by publicly-funded assistance must retain, for ~~their~~ his personal use, the difference between ~~their~~ his total monthly income and the Certified Family Home basic allowance established by IDAPA 16.03.05. "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled," Section 513. (4-11-06)( )

05. **Resident Funds and Property.** ~~Each R~~residents ~~have~~ has the right to manage ~~their~~ his personal funds and use his personal property. ( )

a. ~~A home~~ The provider must not require ~~a~~ the resident to deposit his personal funds ~~with the home into an account controlled by any other person.~~ (4-11-06)( )

b. Upon written authorization from the resident, or the resident's representative to the provider or provider's relative to manage the resident's personal funds, the provider must hold, safeguard, and account for the resident's personal funds as required in Section 275 of these rules. ( )

c. The resident has the right to retain and use his own personal property in his own living area in order to maintain his individuality and personal dignity. The storage and use of these items by the resident must not present

a fire or life safety hazard. ( )

**06. Access to Resident.** Each home provider and individuals living in the home must permit immediate access to any resident by any representative of the Department, by the state Ombudsman for the elderly or his designees, by an adult protection investigator or by the resident's personal physician health care professional. Each home must also permit the following: (4-11-06)( )

**a.** Immediate access to a resident by immediate family or other his relatives, subject to the resident's right to deny or withdraw consent at any time; (4-11-06)( )

**b.** Immediate access to a resident by others who are visiting with the consent of the resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time; (4-11-06)

**c.** Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time: and (4-11-06)( )

**d.** Reasonable access to the resident's records, medications and treatments by the resident's health care professional subject to the resident's permission. ( )

**07. Freedom From Harm.** The resident has the right to be free from: ( )

**a.** Physical, mental, or sexual abuse; ( )

**b.** Neglect; ( )

**c.** Exploitation; ( )

**d.** Corporal punishment; ( )

**e.** Involuntary seclusion; and ( )

**f.** Any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat a medical condition. (4-11-06)( )

~~**a.** A certified family provider who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited must immediately report this information to the Idaho Commission on Aging or its Area Agencies on Aging, according to Section 39-5303, Idaho Code. (4-11-06)~~

~~**b.** The home must report within four (4) hours to the appropriate law enforcement agency when there is reasonable cause to believe that abuse, neglect, misappropriation of resident's property, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult resident according to Sections 39-5303 and 39-5310, Idaho Code. (4-11-06)~~

**08. Health Services.** The resident has the right to control his health-related services, including: (4-11-06)

**a.** The right to retain the services of his own personal physician and dentist; (4-11-06)

**b.** The right to select the pharmacy or pharmacist of his choice; (4-11-06)

**c.** The right to confidentiality and privacy concerning his medical or dental condition and treatment; (4-11-06)

**d.** The right to participate in the formulation of his plan of service: (4-11-06)( )

**e.** The right to decline treatment for any medical condition; and ( )

f. When the resident is unable to give medical consent, the provider will give the name and contact information of the person holding guardianship or power of attorney for health care to any health care provider upon request. ( )

**09. Grievance.** ( )

a. The resident has the right to voice or file a grievance with respect to care or service that is ~~for~~ fails to be~~y~~ furnished, without discrimination or reprisal for voicing the grievance and the right to prompt efforts by the ~~home~~ provider to resolve grievances the resident may have, including those with respect to the behavior of other residents. (4-11-06)( )

b. The provider must provide a written response to the resident or resident's representative describing how he resolved or attempted to resolve the grievance, and maintain a copy of this written response in the resident record. ( )

**10. Advance Notice.** The resident must receive written advance notice at least thirty (30) calendar days prior to his non-emergency transfer or discharge unless the transfer or discharge is for a reason described in Section 260, including the following: ( )

a. The resident is transferred or discharged only for medical reasons, ~~or for:~~ ( )

b. To protect his welfare or the welfare of other ~~residents, or for~~ members of the household; ( )

c. ~~#~~Nonpayment for his stay; (7-1-17)( )

d. The resident violates any condition mutually established between the resident and the provider at the time of admission; or ( )

e. The resident engages in unlawful delivery, production, or use of a controlled substance on the premises of the home. ( )

**11. Other Rights.** In addition to the rights outlined in Subsections 200.01 through 200.10 of ~~these~~ this rule~~s~~, the resident has the following rights: (4-11-06)

a. The resident has the right to refuse to perform services for the home except as contracted between the resident and the provider. The provider agrees to pay the resident for such services, and the provider pays the resident a wage consistent with state and federal law; (4-11-06)( )

b. The resident must have access to his personal records, including those described in Section 270 of these rules, and must have the right to confidentiality of personal, medical, and clinical records; (4-11-06)( )

c. The resident has the right to practice the religion of his choice or to abstain from religious practice. Residents must also be free from the imposition of the religious practices of others; (4-11-06)

d. The resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the home; (4-11-06)

e. The resident has the right to examine, upon reasonable request, the results of the most recent inspection of the home conducted by the Department with respect to the home and any plan of correction in effect with respect to the home; (4-11-06)

f. The resident has ~~a~~ the right to review a list of other certified family homes that may be available to meet his needs in case of transfer; (4-11-06)( )

g. The resident has the right ~~not to be required to receive~~ to refuse routine care of a personal nature ~~from a member of the opposite sex;~~ (4-11-06)( )

h. The resident has the right to be informed, in writing, regarding the formulation of advance

directives as described in Title 39, Chapter 45, Idaho Code; and (4-11-06)  
i. The resident must have any other right established by law. (4-11-06)

**201. NOTICE OF LEGAL RESIDENT RIGHTS.**

**01. Resident Rights Notice.** The ~~certified family home will~~ provider must inform the resident or his representative, verbally and in writing, at the time of admission to the home, of his legal rights during the stay at the home including date and signature. These rights are found in Section 200 of these rules. ~~4-11-06~~( )

**02. Annual Review of Resident Rights.** The provider must review the resident rights policy with the resident or his representative at least annually including date and signature. ( )

**03. Documentation of Review.** The provider must retain the signed and dated copy of the policy in the resident's record indicating that the resident or resident's representative has had the opportunity to review the policy. ( )

**202. ACCESS BY ADVOCATES AND REPRESENTATIVES.**

~~A certified family home~~ The provider, substitute caregivers and adult members of the household must permit advocates and representatives of community and legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the home at reasonable times. Advocates and representatives may observe all common areas of the home. Access must be permitted in order for advocates and representatives to provide the following. ~~4-11-06~~( )

**01. Inform Residents of Services.** Visit, talk with and make personal, social service programs and legal services available to all residents. (4-11-06)

**02. Inform Residents of Rights.** Inform residents of their rights and entitlements, their corresponding obligations under state, federal, and local laws by distribution of educational materials or discussion in groups and with individuals. (4-11-06)

**03. Assist Residents to Secure Rights.** Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in other matters in which residents are aggrieved. This assistance may be provided individually, or in a group basis, and may include organizational activity, counseling, and litigation. (4-11-06)

**04. Advise and Represent.** Engage in other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights. (4-11-06)

**05. Communicate Privately.** Communicate privately and without restrictions with any resident who consents to the communication. (4-11-06)

**203. -- ~~2409~~. (RESERVED)**

**210. REPORTING REQUIREMENTS.**

The provider must report to the regional certifying agent where the home is located as listed in Section 005 of these rules or appropriate agency or individual for the following: ( )

**01. Serious Physical Injury or Death.** The provider must report to the appropriate law enforcement agency within four (4) hours when there is reasonable cause to believe that abuse, neglect, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult resident according to Sections 39-5303 and 39-5310, Idaho Code. ( )

**02. Abuse, Neglect, or Exploitation.** When the provider has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited, he must immediately report this information to the Idaho Commission on Aging or its Area Agencies on Aging, according to Section 39-5303, Idaho Code. ( )

**03. Critical Incidents.** The provider must notify the certifying agent when a critical incident affects the health or safety of the resident or leads to a change in the resident's condition, including serious illness, accident, elopement, death, or adult protective services or law enforcement contact and investigation. Reporting requirements are as follows: ( )

- a.** Within twenty-four (24) hours of the resident's death or disappearance; and ( )
- b.** Within three (3) business days following: ( )
  - i.** Contact from adult protective services or law enforcement in conjunction with an investigation; ( )
  - ii.** A visit to an urgent care clinic or emergency room; or ( )
  - iii.** Admission to a hospital. ( )

**04. Report of Fire.** A separate report on each fire incident occurring within the home, for which a fire extinguisher was discharged or 9-1-1 was contacted, must be submitted to the certifying agent within three (3) business days of the occurrence. The report must include: ( )

- a.** Date of the incident; ( )
- b.** Origin of the fire; ( )
- c.** Extent of damage; ( )
- d.** How the fire was extinguished; and ( )
- e.** Injuries, if any. ( )

**05. Additional Criminal Convictions.** The provider must immediately report any additional criminal convictions for himself, any other adult living in the home or a substitute caregiver to the certifying agent. ( )

**06. Notice of Pending Investigations or Charges.** The provider must immediately report when he, any other adult living in the home, or a substitute caregiver is charged with or under investigation for abuse, neglect or exploitation of any vulnerable adult or child, criminal charges, or when an adult protection or child protection complaint is substantiated to the certifying agent. ( )

**07. Reporting of Funds Managed by the Provider for a Deceased Resident.** For funds managed under Section 275 of these rules, the following is required: ( )

- a.** On the death of a private-pay resident, the provider must convey the resident's funds, with a final accounting of those funds, to the individual administering the resident's estate within thirty (30) days. ( )
- b.** On the death of a publicly funded resident, the provider must convey the resident's funds, with a final accounting of those funds, to the Department within thirty (30) days. ( )

~~203~~11. -- 224. (RESERVED)

225. UNIFORM ASSESSMENT REQUIREMENTS.

**01. State Responsibility for ~~State Publicly~~-Funded Residents.** The Department will assess ~~State-funded~~ residents ~~accessing services through a publicly funded program~~ according to ~~IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients."~~ ~~uniform criteria developed to assess all participants within that respective program. Assessment criteria may vary from one program to another, but must be uniform within the same program.~~ (4-11-06)( )

**02. Provider Responsibility for Private-Pay Residents.** The provider will develop, identify, assess,



or direct a uniform needs assessment of each private-pay residents. ~~The Department's Uniform Assessment Instrument may be used as the uniform needs assessment as described in IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients."~~ The uniform needs assessment: (4-11-06)()

- a. Must be completed no later than fourteen (14) calendar days after admission; ()
- b. Must be reviewed when there is a change in need, or every twelve (12) months, whichever occurs first; ()
- c. Must include: ()
  - i. Identification and background information; ()
  - ii. Medical diagnosis; ()
  - iii. Medical and health needs; ()
  - iv. Prescriptions, including route of administration, and all over-the-counter medications, supplements, treatments, and special diets, if applicable; ()
  - v. Historical and current behavior patterns; ()
  - vi. Cognitive function; ()
  - vii. Psychosocial and physical needs of the resident; ()
  - viii. Functional status; ()
  - ix. Assessed level of care; and ()
  - x. A statement from the resident's health care professional indicating the resident is appropriate for certified family home care. ()
- d. May be the Department's Uniform Assessment Instrument (UAI) as described in IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients," for a private-pay resident's uniform needs assessment. Upon request by the provider, the Department will provide training in conducting uniform needs assessments. ()

**03. Results of Assessment.** The results of the assessment ~~may be~~ for both publicly-funded and private-pay residents is used to evaluate the ability of ~~a~~ the provider to meet the identified resident's needs. The results of the assessment may also be used to determine the need for special training or licenses or certificates that may be required to care for certain residents. (4-11-06)()

~~04. Uniform Needs Assessment for Private Pay. The uniform needs assessment used by the home for private-pay residents must include:~~ (4-11-06)

- ~~a. Identification and background information;~~ (4-11-06)
- ~~b. Medical diagnosis;~~ (4-11-06)
- ~~c. Medical and health problems;~~ (4-11-06)
- ~~d. Prescription and over the counter medications;~~ (4-11-06)
- ~~e. Behavior patterns;~~ (4-11-06)
- ~~f. Cognitive function;~~ (4-11-06)

- ~~g.~~ *The psychosocial and physical needs of the resident;* (4-11-06)
- ~~h.~~ *Functional status; and* (4-11-06)
- ~~i.~~ *Assessed level of care.* (4-11-06)

~~05. **Time Frames for Completing the Uniform Needs Assessment for Private Pay Residents.** The assessment must be completed no later than fourteen (14) calendar days after admission. The assessment must be reviewed when there is a change in need, or every twelve (12) months, whichever comes first. Upon request, the Department may provide training in conducting a uniform needs assessment.~~ (4-11-06)

226. -- 249. (RESERVED)

250. PLAN OF SERVICE.

The resident must have a plan of service. The plan must identify the resident, describe the services to be provided, and describe how the services will be delivered. (4-11-06)

**01. Core Elements.** A resident's plan of service ~~will~~ **must** be based on the orders of the resident's health care professionals, and: (4-11-06)(    )

- a. Assessment; (4-11-06)
- b. Service needs for activities of daily living; (4-11-06)
- c. Need for limited nursing services; (4-11-06)
- d. Need for medication assistance; (4-11-06)
- e. Frequency of needed services; (4-11-06)
- f. Level of ~~assistance~~ care; (4-11-06)(    )
- g. Habilitation and training needs; (4-11-06)
- h. Behavioral management needs, including identification of situations that trigger inappropriate behavior; (4-11-06)
- i. Physician's dated history and physical; (4-11-06)
- j. Admission records; (4-11-06)
- k. Community support ~~ive systems~~ services; (4-11-06)(    )
- l. Resident's desires; (4-11-06)
- ~~m.~~ Resident's need for supervision, including the degree; (    )
- ~~n.~~ Transfer and discharge requirement; and (4-11-06)
- ~~o.~~ Other identified needs. (4-11-06)

**02. Signature and Approval.** The provider and the resident, ~~his legal guardian or his conservator~~ or the resident's representative must sign and date the plan of service upon its completion, within fourteen (14) days after the resident's admission. ~~For homes serving state-funded residents, services must be authorized by the Department prior to admission.~~ (4-11-06)(    )

**03. Developing the Plan.** The provider will consult the resident and other individuals identified by the resident in developing the plan of service. Professional staff must be involved in developing the plan if required by another program. (4-11-06)

**04. Resident Choice.** A resident must be given the choice and control of how and what services the provider or external vendors will provide to the extent the resident can make choices. (4-11-06)

**05. Copy of the Plan.** Signed copies of the plan of service must be placed in the resident's file, given to the resident, and given to his ~~legal guardian or his conservator~~ representative, if applicable, no later than fourteen (14) days after admission. A For a resident receiving services through a publicly-funded program, the Department-approved plan must be in the resident's file, if applicable indicate that it has been approved by the Department. (4-11-06)( )

**06. Changes to the Plan.** A record must be made of any changes to the plan or when the provider is unable to provide services outlined in the plan of service. (4-11-06)

**07. Periodic Review.** The next scheduled date of review must be documented in the plan of service. The plan of service should be reviewed as necessary but must be reviewed at least every twelve (12) months. (4-11-06)

251. - 259. (RESERVED)

**260. ADMISSIONS.**

According to Section 39-3507, Idaho Code, the provider must only admit or retain residents in the home for whom he has the training, appropriate skills, and time to provide adequate care to all residents living in the home. The provider must be able to provide the level of services or types of service required for each resident admitted to the home. ( )

**01. Prior Approval Required.** The provider must obtain approval from the Department for each resident prior to the resident moving into the home. The following must be provided to the regional certifying agent where the home is located as listed in Section 005 of these rules to aid the Department in making its determination: ( )

**a.** Name, gender and date of birth of the prospective resident; ( )

**b.** The contemplated date of admittance of the prospective resident into the home; ( )

**c.** The prospective resident's history and physical from his health care professional, conducted within the previous twelve (12) month period reflecting his current health status; ( )

**d.** A list of the resident's current medications and treatments from his health care professional; ( )

**e.** Contact information for the resident's health care professionals; ( )

**f.** Contact information for the prospective resident's representative, if applicable; ( )

**g.** The resident's plan of service from another health care setting, or any such plan of service conducted for the resident within the previous six (6) months, if one exists, when the resident transfers to the home from another health care setting; and ( )

**h.** Other information requested by the Department relevant to the appropriateness of the admission and the provider's ability to provide adequate care. ( )

**02. Notification.** Within five (5) business days of receipt of the documents listed in Subsection 260.01 of this rule, the Department will notify the provider verbally or in writing whether the proposed admission is approved or denied. When verbal notification is given, the Department will provide follow-up written communication to the provider stating the approval or denial within ten (10) business days. ( )

**03. Emergency Admission.** The provider may not accept an emergency admission without prior approval from the Department except under the following conditions: ( )

**a.** The provider may make a conditional admission when he reasonably believes he has the ability to provide adequate care to the resident when the request for an emergency placement occurs after normal business hours and the provider is unable to contact the Department for prior approval. The provider must notify the resident or his representative that the admission is conditional upon Department approval. ( )

**b.** The provider must notify the regional certifying agent where the home is located as listed in Section 005 of these rules the next business day after making a conditional admission. ( )

**c.** The provider must follow the regular admission process described in Subsection 260.01 of this rule within two (2) business days of making a conditional admission. The Department may deny the placement and require the resident to transfer when there is reasonable cause to believe the provider lacks the ability to provide adequate care. ( )

**04. Admission Agreement.** At the time of admission to a certified family home, the provider and the resident ~~or resident's representative, if applicable,~~ must enter into an admission agreement. The agreement ~~will~~ **must** be in writing and must be signed ~~and dated~~ by both parties. The agreement must, in itself or by reference to the resident's plan of ~~care~~ **service**, include at least the following: (4-11-06)( )

**a.** Whether or not the resident will assume responsibility for his own medication ~~including reporting missed medication or medication taken on a PRN basis;~~ (4-11-06)( )

**b.** ~~Whether or not the resident has ongoing ability to safeguard himself against personal harm, injury or accident.~~ The ~~certified family home~~ **provider** must have a plan in place for steps ~~#~~ **the provider** will take if the resident is not able to carry out his own self-preservation. (4-11-06)( )

**c.** Whether or not the provider will accept responsibility for the resident's funds; (4-11-06)

**d.** How a partial month's refund will be managed; (4-11-06)

**e.** Responsibility for valuables belonging to the resident and provision for the return of a resident's valuables should the resident leave the home; (4-11-06)

**f.** Amount of liability coverage provided by the homeowner's or renter's insurance policy; ~~and whether the insurance policy covers the resident's personal belongings;~~ (4-11-06)( )

**g.** Written notice ~~of~~ at least thirty (30) calendar days as agreed to in the admission agreement prior to ~~discharge on the part of either party or transfer or discharge on the part of either party;~~ **when the transfer is not for medical reasons or for the resident's welfare or the welfare of others, or when the discharge is not for a situation described in Subsection 260.05.b. of this rule;** (7-1-17)( )

**h.** Conditions under which ~~an~~ emergency ~~transfers~~ **temporary placement** will be made ~~as described under Subsection 260.06 of this rule;~~ (4-11-06)( )

**i.** Signed permission to ~~transfer~~ **provide** pertinent information from the resident's record to a hospital, nursing home, residential and assisted living facility, or other certified family home; (4-11-06)( )

**j.** Responsibility to obtain consent for medical procedures including the name, address, ~~and telephone number~~ of guardian or power of attorney for health care for any resident who is unable to make his own medical decisions; (4-11-06)( )

**k.** Resident responsibilities as appropriate; (4-11-06)

**l.** Amount the ~~home~~ **provider** will charge ~~the resident~~ for room, utilities and three (3) daily meals ~~on a~~

monthly basis, and if the resident is private-pay or has a share of cost, a separately listed amount the provider will charge for care on a monthly basis; and (4-11-06)( )

m. Written notice of at least fifteen (15) calendar days as agreed to in the admission agreement prior to the provider changing the charges to the resident as described in Subsection 260.04.l. of this rule; ( )

n. Protections that address eviction processes and appeals comparable to those provided under Idaho landlord tenant law. The admission agreement must either: ( )

i. Adopt the eviction and appeal processes as described in Title 6, Chapter 3, Idaho Code; or ( )

ii. Adopt the eviction and appeal processes as described in the version of the admission agreement provided by the Department; and ( )

m.o. Other information as needed. Additional conditions as agreed upon by both parties but consistent with the requirements of these rules. (4-11-06)( )

**025. Termination of Admission Agreement.** The admission agreement must ~~not~~ only be terminated ~~except~~ under the following conditions: (4-11-06)( )

a. Giving The provider or the resident, or the resident's representative, if applicable, provides the other party at least thirty (30) calendar days' written notice as agreed to in the admission agreement for any reason; or (7-1-17)( )

b. The resident's mental or physical condition deteriorates to a level requiring evaluation or services that cannot be provided in a certified family home; A three (3) day written notice may be given by the provider to the resident or the resident's representative, if applicable, when any of the following occur, subject to the appeal process required under Subsection 260.04.n. of this rule; (4-11-06)( )

ei. Nonpayment of the resident's bill identified in Subsection 260.04.l. of this rule; (4-11-06)( )

d. Emergency conditions requiring a resident to transfer out of the home without thirty (30) calendar days' written notice to protect the resident or other residents in the home from harm; and (7-1-17)

ei. Other The resident violates written conditions as mutually established between the resident and the provider at the time of admission; or (4-11-06)( )

iii. The resident engages in the unlawful delivery, production, or use of a controlled substance on the premises of the home. ( )

**06. Emergency Temporary Placement.** The admission agreement will remain in force and effect, ~~excluding the provider's responsibility for care and the charge to the resident for such care as identified in Subsection 260.04.l. of this rule, while the resident is temporarily transferred from the home to another care setting on an emergency basis unless either party terminates the agreement as described in Subsections 260.05.a. and 260.05.b. of this rule. Reasons for an emergency temporary placement include:~~ ( )

a. The resident's mental or physical condition deteriorates to a level requiring evaluation or services that cannot be met by the provider or reasonably accommodated by the home; or ( )

b. Emergency conditions requiring the resident to transfer out of the home without thirty (30) calendar days' written notice to protect the resident or other residents, the provider, or other individuals living in the home from harm. ( )

**07. Discharge Procedure.** The provider must immediately notify the regional certifying agent where the home is located as listed in Section 005 of these rules upon the transfer or discharge of the resident. The provider must document the return of the following items to the resident or resident's representative as agreed in the admission agreement according to Subsection 260.04.e. of this rule: ( )

- a. All personal funds belonging to the resident. If the provider, his relative, or any other member of the household was managing the resident's funds, a final accounting of such must be provided; ( )
- b. Any medication, supplement or treatment belonging to the resident; ( )
- c. All resident belongings as indicated on his belongings inventory; and ( )
- d. Any other item belonging specifically to the resident, including personal documents. ( )

261. -- 269. (RESERVED)

**270. RESIDENT RECORDS.**

The provider must maintain records for each resident admitted to the home as provided in this rule. ( )

**01. Admission Records.** Records required for admission to ~~a~~ the home must be maintained, ~~and~~ updated, and ~~must be~~ kept confidential. The ~~ir~~ availability of the records without the consent of the resident, subject to IDAPA 16.05.01, "Use and Disclosure of Department Records," is limited to the ~~home, professional consultants resident and resident's representative, the provider, substitute caregivers,~~ the resident's ~~physician health care professionals,~~ and representatives of the Department ~~including certifying agents.~~ All entries must be ~~kept current, accurate and reflect updated information as changes occur,~~ recorded legibly in ink, ~~dated,~~ signed ~~and dated,~~ and must include: (4-11-06)( )

- a. The resident's full given ~~N~~name; (4-11-06)( )
- b. The resident's ~~P~~permanent address if other than the home; (4-11-06)( )
- c. The resident's ~~M~~marital status and sex; (4-11-06)( )
- d. The resident's ~~Birth~~ place and date of birth; (4-11-06)( )
- e. The name, address, and telephone number of an individual identified by the resident ~~or the resident's representative~~ who should be contacted in the event of an emergency or death of the resident; (4-11-06)( )
- f. The resident's ~~P~~personal ~~physician and dentist~~ health care professionals; (4-11-06)( )
- g. Admission date and name of ~~the~~ person who completed ~~the~~ admission form; (4-11-06)( )
- h. Results of a history and physical ~~examination~~ performed by a ~~licensed physician or nurse practitioner within six (6)~~ health care professional reflecting the resident's current health status and conducted no earlier than twelve (12) months prior to admission; (4-11-06)( )
  - i. ~~For private pay residents, the history and physical should include a description of the resident's needs for personal assistance and supervision, and indicate that the resident is appropriate for placement in a home;~~ (4-11-06)
  - ji. A list of medications, treatments, and special diets, if any, prescribed for the resident and signed and dated by ~~the physician~~ his health care professional; (4-11-06)( )
  - kj. Religious affiliation if ~~the~~ resident ~~so~~ chooses to disclose; (4-11-06)( )
  - l. ~~Interested relatives and friends other than those outlined in Subsection 270.01.e. of these rules, to include names, addresses, and telephone numbers of family members, legal guardian or conservator, or significant others, or all;~~ (4-11-06)
  - mk. Social information, obtained by the ~~home~~ provider from the resident, ~~or resident's~~ family, service

coordinator, legal guardian or conservator, or other knowledgeable individuals. ~~The information must~~ to include the resident's social history, hobbies, and interests; (4-11-06)( )

~~n1.~~ The Written admission agreement ~~which is signed and dated by the provider and the resident, his legal guardian or his conservator~~ as described in Section 260 of these rules; (4-11-06)( )

~~om~~ A signed copy of the resident's rights policy as ~~specified~~ described in Section 200 of these rules, ~~or documentation that the resident, his legal guardian, or his conservator has read and understands his rights as a resident of the home;~~ (4-11-06)( )

~~pn.~~ A copy of the resident's ~~most current uniform needs~~ assessment ~~for the certified family home~~ as described in Section 225 of these rules; (4-11-06)( )

~~qo.~~ A copy of the signed and dated admission plan of service ~~that contains all elements of a plan of service between the resident, his legal guardian, or his conservator and the home~~ as described in Section 250 of these rules; (4-11-06)( )

~~rp.~~ An inventory of the resident's belongings that may consist of photographs or a written descriptive list. The resident ~~can~~ or the resident's representative may inventory any ~~item~~ personal possession he so chooses and expects returned upon the resident's transfer or discharge from the home. The belongings inventory may be updated at any time but must be updated at least annually; (4-11-06)( )

~~sq.~~ Information about any specific health problems of the resident ~~which that~~ may be useful in a medical emergency; ~~and~~ (4-11-06)( )

~~tr.~~ Any other health-related, emergency, or pertinent information ~~which that~~ the resident requests the home provider to keep on record; (4-11-06)( )

s. If the resident has a representative, a copy of the document giving the representative legal authority to act on behalf of the resident, including guardianship or power of attorney for healthcare decisions; ( )

t. Contact name, address, and telephone number of any individual or agency providing supportive services to the resident; and ( )

u. Signed copy of any care plan that is prepared for the resident by an outside service provider. ( )

**02. Ongoing Resident Records.** Records must be kept ~~current~~ by the provider for services to the resident showing accurate and updated information as services are rendered, including: (4-11-06)( )

~~a-~~ ~~Admission information required in Subsection 270.01 of these rules;~~ (4-11-06)

~~b-~~ ~~A current list of medications, diet, and treatments prescribed for the resident which is signed and dated by the physician giving the order. Current orders may be a copy of the signed doctor's order from the pharmacy;~~ (4-11-06)

~~e-~~ ~~Documentation of any medication refused by the resident, not given to the resident or not taken by the resident with the reason for the omission. All PRN medication must be documented with the reason for taking the medication;~~ (4-11-06)

da. Any incident or accident occurring while the resident is living in the home; and the provider's response. If the incident or accident occurs while the resident is receiving supportive services, the provider must obtain a written report of the event from the service provider; (4-11-06)( )

b. The provider's written response to any grievance as described in Section 200 of these rules; ( )

ec. Notes from the licensed nurse, home health agency, physical therapist, ~~and~~ or any other service providers, documenting the services provided to the resident at each visit to the home; (4-11-06)( )

~~fd.~~ Documentation of significant changes in the resident's physical, ~~or~~ mental status, ~~or both~~ and the ~~home's provider's~~ response; ~~and~~ (4-11-06)( )

~~ge.~~ ~~If appropriate~~ When the provider, a relative of the provider, or an individual living in the home other than the resident manages the resident's funds, financial accounting records for such funds as described in Section 275 of these rules; (4-11-06)( )

~~h.~~ ~~The resident's uniform needs assessment, to include the admission assessment and all assessments for the past year, for certified family home care;~~ (4-11-06)

~~i.~~ ~~Signed and dated plan of service, to include the admission plan of service and all service agreements for the past year between the resident, his legal guardian, or his conservator and the home;~~ (4-11-06)

~~j.~~ ~~Contact name, address, phone number of individuals or agencies providing paid supports;~~ (4-11-06)

~~k.~~ ~~Signed copies of all care plans that are prepared by all outside service providers; and~~ (4-11-06)

~~l.~~ ~~An inventory of resident's belongings. The resident can inventory any item he chooses. The inventory can be updated at any time but must be updated annually.~~ (4-11-06)

**03. Maintenance of Resident Records.** All records of services delivered by the provider must be maintained in the home for at least five (5) years from the date of service. (4-11-06)

271. -- 274. (RESERVED)

**275. RESIDENT FUNDS AND FINANCIAL RECORDS.**

**01. Resident Funds Policy.** ~~If a~~ When the resident's funds are turned over to the provider for any purpose other than payment for services allowed under these rules, or if the provider, ~~or~~ his relative, or an individual living in the home acts as the resident's payee, the home provider is deemed to be handling managing the resident's funds. Each home provider must develop and implement a policy and procedure outlining how the resident's funds will be managed. This policy and procedure must include the following: (4-11-06)( )

a. Statement of whether the home provider will or will not manage resident funds; (4-11-06)( )

b. ~~If~~ When the home manages resident funds and the resident leaves the home under any circumstances, the home can provider must; ( )

~~i.~~ ~~Only~~ retain room and board funds prorated to the last day of the ~~fifteen (15) calendar day notice period, or thirty (30) calendar day~~ notice period as specified in the admission agreement, or upon the resident moving from the home, whichever is later; ( )

~~ii.~~ Immediately return ~~A~~ all remaining resident funds ~~must follow~~ to the resident, or to the resident's representative; and resident funds must ( )

~~iii.~~ Only be used the resident's funds for that resident's expenses until a new payee is appointed. (4-11-06)( )

**02. Managing Resident Funds.** ~~A home that~~ The provider who manages a resident's funds must: (4-11-06)( )

a. Establish a separate account at a financial institution for each resident. ~~There can be no commingling of resident funds with home funds. Borrowing between resident accounts is prohibited to which the resident's funds may be reconciled by means of a financial statement;~~ (4-11-06)( )



**b.** ~~Prohibit commingling of the resident's funds with the funds of any other person, including borrowing funds from the resident;~~ ( )

**bc.** Notify the resident that ~~his~~ funds are available for his use, ~~including the amount in the resident's account;~~ (4-11-06)( )

**ed.** ~~Bill each~~ Charge the resident ~~the amount agreed upon in the admission agreement as described in Section 260 of these rules~~ for his certified family home ~~care-charges services~~ on a monthly basis from his funds; (4-11-06)( )

**de.** ~~Document on a monthly or on a weekly basis any~~ Maintain accounting documentation, including financial statements, receipts and ledgers, for all financial transactions in excess of five dollars (\$5) ~~between the resident and the home in which the resident's funds were used.~~ A separate transaction record must be maintained for each resident; (4-11-06)( )

**ef.** Restore funds to the resident if the ~~home provider~~ cannot produce proper accounting records of resident's funds or property, including receipts for purchases made using the resident's personal funds. Restitution of the funds to the resident is a condition for continued operation of the home; (4-11-06)( )

**fg.** Not require the resident to purchase goods or services from ~~or for~~ the home other than those designated in ~~the admission agreement~~ Section 260 of these rules; (4-11-06)( )

**gh.** Provide ~~the resident, his legal guardian, his representative with financial power of attorney, and conservator~~ access to the resident's funds ~~to the resident, his legal guardian or conservator or another person of the resident's choice;~~ (4-11-06)( )

**hi.** On the death of a private-pay resident, convey the resident's funds with a final accounting of those funds to the individual administering the resident's estate; within thirty (30) days ~~as described in Section 210 of these rules;~~ (4-11-06)( )

**ji.** On the death of a ~~client of the Department~~ publicly-funded resident, convey the resident's funds, with a final accounting of those funds, to the Department within thirty (30) days ~~as described in Section 210 of these rules.~~ (4-11-06)( )

276. -- 299. (RESERVED)

**300. SHORT-TERM CARE AND SUPERVISION.**

When the provider is temporarily ~~unable~~ unavailable to provide care or supervision to the resident, he may designate another adult to provide care and supervision, or ~~only~~ supervision ~~only~~ to the resident. The provider must assure that this short-term arrangement meets the needs of the resident and protects the resident from harm. (4-11-06)( )

**01. Alternate Caregiver.** An alternate caregiver must be a certified family home provider. An alternate caregiver provides care and supervision in his home to a resident from another certified family home according to the resident's original plan of service and admission agreement. ~~The provider is responsible to provide or arrange for resident-specific training for the alternate caregiver. Alternate care can be provided for up to thirty (30) consecutive days.~~ The following applies to an alternate care placement; (4-11-06)( )

**a.** ~~The Department must approve an alternate care placement using the process described in Section 260 of these rules. The alternate caregiver must;~~ ( )

**i.** ~~Not exceed the number of residents for which his home is certified to provide care;~~ ( )

**ii.** ~~Comply with Section 140 of these rules when the resident receiving alternate care will be the third or fourth resident in the alternate caregiver's home;~~ ( )

**iii.** ~~Comply with Section 130 of these rules when the resident receiving alternate care requires nursing facility level of care and any other resident in the alternate caregiver's home requires nursing level of care.~~ ( )

~~b.~~ Upon approval from the Department, alternate care may be provided for up to thirty (30) consecutive days; and ( )

~~c.~~ The provider must provide or arrange for resident-specific training to the alternate caregiver, including supplying copies of the resident's current assessment, plan of service, and admission agreement. ( )

**02. Substitute Caregiver.** A substitute caregiver must be ~~approved~~ an adult designated by the provider to provide care and supervision to the resident in the provider's certified family home. The following applies to the designation of a substitute caregiver: ( )

~~a.~~ The provider is responsible to provide or arrange for resident-specific training for the substitute caregiver: including reviewing copies of each resident's current assessment, plan of service, and admission agreement; ( )

~~b.~~ Staffing levels in the home must be maintained at the same level as when the provider is available to provide care and supervision; ( )

~~c.~~ Substitute care can be provided for up to thirty (30) consecutive days; and ( )

~~d.~~ ~~In addition to~~ The substitute caregiver must have the following qualifications: (4-11-06)( )

~~a.i.~~ Current certification in first aid and adult Cardio-Pulmonary Resuscitation (CPR), that meets the standards under Section 100 of these rules; (4-11-06)( )

~~b.ii.~~ A criminal history check as provided in Section 009 of these rules; and (4-11-06)

~~e.iii.~~ Completed Completion of the "Assistance with Medications" course or other Department-approved training as provided in Section 4100 of these rules, ~~if they will assist the resident with medications.~~ (4-11-06)( )

**03. Incidental Supervision.** An individual providing incidental supervision must be approved by the provider to supervise the resident. Incidental supervision must not include resident care. Incidental supervision may be provided for up to four (4) hours per week. (4-11-06)

301. -- 399. (RESERVED)

**400. MEDICATION ~~STANDARDS AND REQUIREMENTS~~ POLICY.**

~~01. Medication Policy.~~ The ~~certified family home~~ provider must ~~develop~~ possess and implement written medication policies and procedures that outline in detail how the home will assure appropriate assistance with and handling of and safeguarding of medications. ~~This documentation~~ These policies and procedures must be maintained in the home, and include the following-; (4-11-06)( )

~~02. Handling of Resident's Medication.~~ (4-11-06)

~~a.~~ ~~The medication must be in the original pharmacy-dispensed container, or in an original over-the-counter container, or placed in a unit container by a licensed nurse and be appropriately labeled with the name of the medication, dosage, time to be taken, route of administration, and any special instructions. Each medication must be packaged separately unless in a Mediset, blister pack, or similar system.~~ (4-11-06)

~~b.~~ ~~Evidence of the written or verbal order for the medication from the physician or other practitioner of the healing arts must be maintained in the resident's record. Medisets filled and labeled by a pharmacist or licensed nurse may serve as written evidence of the order. An original prescription bottle labeled by a pharmacist describing the order and instructions for use may also serve as written evidence of an order from the physician or other practitioner of the healing arts.~~ (4-11-06)

~~e.~~ ~~The home is responsible to safeguard the resident's medications.~~ (4-11-06)

~~d. Medications that are no longer used by the resident must not be retained by the certified family home for longer than thirty (30) calendar days. (4-11-06)~~

01. Following Orders. Assistance given by the provider must only be as directed by the resident's health care professionals. ( )

02. Evidence of Orders. Evidence of each resident's orders must be maintained in the home, regardless of whether the resident is able to self-administer, and may consist of the following: ( )

a. Written instructions from the health care professional for the medication including the dosage, expected effects, potential adverse reactions or side effects, and actions to take in an emergency; ( )

b. Medisets filled and appropriately labeled by a pharmacist or licensed nurse with the name of the medications, dosage, time to be taken, route of administration, and any special instructions; ( )

c. An original prescription bottle labeled by a pharmacist describing the order and instructions for use; and ( )

d. If the medication, supplement, or treatment is without a prescription, it will be listed among over-the-counter medications approved by the resident's health care professional as indicated by a signed statement. Over-the-counter medications will be given as directed on the packaging. ( )

03. Alteration of Orders. The provider must not alter dosage, discontinue or add medications, including over-the-counter medications and supplements, or discontinue, alter, or add treatments or special diets without first consulting the resident's prescribing health care professional and obtaining an order for the change as required under Subsection 400.01 of this rule. ( )

04. Allergies. The provider must list any known food or drug allergies for each resident and take precautions to guard against the resident ingesting such allergens. ( )

05. Training. Each adult assisting with resident medications must have successfully completed the "Assistance with Medications" course, or other Department-approved training as described in Section 100 of these rules. Additionally: ( )

a. Each resident's orders will be reviewed by each staff person assisting residents with medications prior to offering assistance; and ( )

b. Written instructions will be in place that outline who to notify if any of the following occur: ( )

i. Doses are not taken; ( )

ii. Overdoses occur; or ( )

iii. Side effects are observed. ( )

c. The provider must ensure any staff assisting with medications has reviewed each resident's known allergies and takes precautions against the resident ingesting such allergens. ( )

06. Self-administration. When the provider cares for a resident who self-administers his own medications, the provider must follow the standards described under Section 401 of these rules. ( )

07. Assistance with Medication. When the provider cares for a resident who needs assistance with medications, the provider must follow the standards described under Section 402 of these rules. ( )

**401. SELF-ADMINISTRATION OF MEDICATION.**

~~03. Self-Administration of Medication.~~ If the resident is responsible for administering his own medication without assistance, the provider must ensure the following: ( )

~~01. Approval.~~ The provider must obtain written approval stating that the resident is capable of self-administration ~~must be obtained~~ from the resident's ~~primary physician or other practitioner of the healing arts~~ health care professional; otherwise, the provider must comply with the standards in Section 402 of these rules. ( )

~~02. Evaluation.~~ The resident's record must ~~also~~ include documentation that ~~a licensed nurse or other qualified professional~~ the resident's health care professional has evaluated the resident's ability to safely self-administer medication, ~~and has found that the resident~~ The evaluation must include verification of the following: (4-11-06)( )

a. The resident ~~U~~ understands the purpose of ~~the~~each medication; (4-11-06)( )

b. The resident is oriented to time and place and ~~K~~ knows the appropriate dosage and times to take the medication; (4-11-06)( )

c. The resident ~~U~~ understands the expected effects, adverse reactions, or side effects, and knows what ~~actions~~ to take in case of an emergency; and (4-11-06)( )

d. The resident ~~f~~ is able to take the medication without assistance or reminders. (4-11-06)( )

~~03. Change in Condition.~~ Should the condition of the resident change such that it brings into question his ability to safely continue self-administration of medications, the provider must have a reevaluation and approval of the resident to self-administer as required in Subsections 401.01 and 401.02 of this rule. ( )

~~04. Safeguarding Medication.~~ The provider must ensure that the medications of a resident who self-administers are safeguarded, including providing a lockable storage cabinet to the resident as described in Section 175 of these rules. Notwithstanding, the resident must be allowed to maintain his medications under his own control and possession. ( )

#### 402. ASSISTANCE WITH MEDICATION.

~~04. Assistance with Medications.~~ The ~~certified family home~~ provider must ~~provide~~ offer assistance with medications to residents who need assistance; however, only a ~~licensed nurse or other licensed~~ health care professional may administer medications. Prior to assisting residents with medication, the provider must ensure the following conditions ~~must be~~ are in place: (4-11-06)( )

~~a01. Training.~~ Each person assisting with resident medications must be an adult who successfully completed and follows the "Assistance with Medications" course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing, or other Department-approved training. ~~Family members previously exempted from this requirement must complete this course before July 1, 2006.~~ (4-11-06)( )

~~b02. Condition of the Resident.~~ The resident's health condition is stable; (4-11-06)( )

~~e03. Nursing Assessment.~~ The resident's health status does not require nursing assessment before receiving the medication nor nursing assessment of the therapeutic or side effects after the medication is taken; unless the provider is a health care professional. (4-11-06)( )

~~a04. Containers and Labels.~~ The medication is in the original pharmacy-dispensed container with proper label and directions or in an original over-the-counter container. ( )

a. Each medication must be packaged separately unless in a Mediset, blister pack, or similar system. ( )

b. ~~or the m~~Medication ~~has been~~ may be placed in a unit container by a licensed nurse when the container is appropriately labeled with the name of the medications, dosage, time to be taken, route of administration, and any special instructions. ( )

~~c.~~ Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container; ~~(4-11-06)~~( )

~~e.~~ ~~Written and oral instructions from the licensed physician or other practitioner of the healing arts, pharmacist, or nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions or side effects, and action to take in an emergency have been reviewed by the staff person;~~ ~~(4-11-06)~~

~~f.~~ ~~Written instructions are in place that outline required documentation of medication assistance, and whom to call if any doses are not taken, overdoses occur, or actual or potential side effects are observed; and~~ ~~(4-11-06)~~

~~g.~~ ~~Procedures for disposal/destruction of medications must be documented and consistent with procedures outlined in the "Assistance with Medications" course.~~ ~~(4-11-06)~~

**05. Safeguarding Medications.** The provider must take adequate precautions to safeguard the medications of each resident for whom he provides assistance. Safeguarding consists of the following: ( )

a. Storing each resident's medications in an area or container designated only for that particular resident including a label with the resident's name, except for medications that must be refrigerated; ( )

b. Keeping the designated area or container for the resident's medications under lock and key when either of the following apply: ( )

i. The resident's medications include a controlled substance; or ( )

ii. Any resident in the home or other member of the household has drug-seeking behaviors. ( )

c. Ensuring each resident's designated area or container is clean and kept free of contamination, including disposal of loose pills in accordance with Subsection 402.08 of this rule; and ( )

d. Dispensing only one (1) resident's set of medications from its designated area or container at one (1) time, so as to mitigate medication errors. ( )

**056. Administration of Medications.** Only a ~~licensed nurse or other licensed~~ health ~~care~~ professionals working within the scope of ~~their~~ his license may administer medications. Administration of medications must comply with the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." Some ~~services~~ procedures are of such a technical nature that they must always be performed by, or under the direct supervision of, a ~~licensed nurse or other licensed~~ health ~~care~~ professional. These ~~services~~ procedures are outlined in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Section 490. ~~(4-11-06)~~( )

**07. Documentation of Assistance.** Documentation of assistance with medications must be maintained by the provider. The documentation must: ( )

a. Be logged concurrent with the time of assistance; and ( )

b. Contain at least the following information: ( )

i. The name of the resident receiving the medication; ( )

ii. The name of the medication given; ( )

iii. The dosage of the medication given; and ( )

iv. The time and date the medication was given. ( )

c. When medications, including both over-the-counter and prescription are taken on a PRN basis, the reason for taking the medication.

**068. ~~Written Record of Disposal of Medication.~~ Medication that has been discontinued as ordered by the resident's health care professional, or has expired, must be disposed of by the provider within thirty (30) days of the order or expiration date.** A written record of all disposal of drugs must be maintained in the home and ~~will~~ **must** include: (4-11-06)(    )

**a.** ~~A description of the drug, including the amount~~ **The name of the medication;** (4-11-06)(    )

**b.** **The amount of the medication, including the number of pills at each dosage, if applicable;** (    )

**b.c.** The **name of the** resident for whom the medication was prescribed; (4-11-06)(    )

**ed.** The reason for disposal; (4-11-06)

**e.** **The date on which the medication was disposed;** (    )

**df.** The method of disposal; and (4-11-06)

**eg.** ~~Signatures of responsible home personnel and a witness or the resident's family~~ **A signed statement from the provider and a witness confirming the disposal of the medication.** (4-11-06)(    )

~~4043.~~ -- 499. (RESERVED)

**500. ENVIRONMENTAL SANITATION STANDARDS.**

The ~~home~~ **provider** is responsible for disease prevention and maintenance of sanitary conditions **in the home.** (4-11-06)(    )

**01. Water Supply.** The water supply for the home must be adequate, safe, and sanitary. (4-11-06)

**a.** The home must use a public or municipal water supply or a Department-approved private water supply; (4-11-06)

**b.** If water is from a private supply, water samples must be submitted to ~~an private~~ accredited laboratory ~~or the District Public Health Laboratory for~~ **and show an absence of** bacteriological ~~examination~~ **contamination** at least annually, or more frequently if deemed necessary by the Department. Copies of the laboratory reports must be kept on file at the home; and (4-11-06)(    )

**c.** There must be ~~enough~~ **adequate** water pressure to meet ~~the~~ sanitary requirements at all times. (4-11-06)(    )

**02. Sewage Disposal.** The sewage disposal system must be in good working order. All sewage and liquid wastes must be discharged, collected, treated, and disposed of in a manner approved by the ~~local municipality~~ **or the** Department. (4-11-06)(    )

**03. Nonmunicipal Sewage Disposal.** (    )

**a.** For homes with nonmunicipal sewage disposal, at the time of the initial certification and at least every five (5) years thereafter, the ~~home~~ **provider** must ~~provide~~ **obtain** proof that the septic tank has been pumped or that pumping was not necessary, ~~or that the system is otherwise in good working condition.~~ **In addition, at the time of initial certification:** (4-7-11)(    )

**ab.** ~~The home must obtain a statement from the local health district indicating that the sewage disposal system meets local requirements. The statement must be kept on file at the home; or~~ **The Department may require the provider to obtain a statement from the local or area health district indicating that the sewage disposal system meets local requirements. The statement must be kept on file at the home.** (4-11-06)(    )

**b.** ~~If the local health district does not issue these statements, the home must obtain a statement to that effect from the health district. The statement must be kept on file at the home.~~ (4-11-06)

- 04. Garbage and Refuse Disposal.** Garbage and refuse disposal must be provided by the home. (4-11-06)
- a.** Garbage containers outside the home used for storage of garbage and refuse must be constructed of durable, nonabsorbent materials and ~~must not leak or absorb liquids. Containers must~~ be provided with tight-fitting lids. (4-11-06)( )
- b.** Garbage containers must be maintained in good repair ~~and must not leak or absorb liquids.~~ ( )
- c.** Sufficient containers must be available to hold all garbage and refuse ~~which that~~ accumulates between periods of removal from the premises. ( )
- d.** Storage areas must be kept ~~clean and sanitary~~ free of excess refuse and debris. (4-11-06)( )
- 05. Insect and Rodent Control.** The home must be maintained free from infestations of insects, rodents and other pests. ~~Chemicals (pesticides)~~ used in the control program must be selected, stored, and used safely. (4-11-06)( )
- a.** The ~~chemical~~ pesticide must be selected on the basis of the pest involved and used only in the manner prescribed by the manufacturer; (4-11-06)( )
- b.** The ~~home provider~~ must take ~~the~~ necessary precautions to protect ~~the~~ resident~~s~~ from obtaining toxic chemicals, ~~as appropriate for his functional and cognitive ability.~~ (4-11-06)( )
- 06. Yard.** The yard surrounding the home must be safe and maintained. (4-11-06)
- 07. Linen-Laundry Facilities and Services.** A washing machine and dryer must be ~~provided readily available~~ for the proper and sanitary washing of linen and other washable goods. ~~Laundry services must be offered on at least a weekly basis, or more frequently when soiled linens or clothing create a noticeable odor.~~ (4-11-06)( )
- 08. Housekeeping and Maintenance.** Sufficient housekeeping and maintenance must be provided to maintain the interior and exterior of the home in a clean, safe, and orderly manner. (4-11-06)
- a.** ~~A Resident~~ sleeping rooms must be thoroughly cleaned including the bed, bedding, ~~and~~ furnishings, walls, and floors. ~~Cleaning must occur on at least a weekly basis and immediately~~ before ~~it is being~~ occupied by a new resident~~s~~; ~~and~~ (4-11-06)( )
- b.** Deodorizers must not be used to cover odors caused by poor housekeeping or unsanitary conditions. (4-11-06)( )
- c.** ~~Cleaners and chemicals must be stored and used appropriately and safely. The provider must take necessary precautions to protect the resident from obtaining toxic chemicals, as appropriate for his functional and cognitive ability.~~ ( )
- 501. -- 599. (RESERVED)**
- 600. FIRE AND LIFE SAFETY STANDARDS.**  
~~Certified family~~ Each home~~s~~ must meet all applicable requirements of local and state codes concerning fire and life safety. (4-11-06)( )
- 01. General Requirements.** General requirements for the fire and life safety standards for a certified family home are: (4-11-06)
- a.** The home must be structurally sound and equipped and maintained to assure the safety of residents; and (4-11-06)
- b.** When natural or man-made hazards are present, suitable fences, guards, and railings must be

provided to protect the residents according to their need for supervision as documented in the plan of service; and (4-11-06)

c. The ~~premises exterior and interior~~ of the ~~certified family~~ home must be kept free from the accumulation of weeds, trash, ~~and debris~~, rubbish, ~~and clutter~~. (4-11-06)( )

**02. Fire and Life Safety Requirements.** (4-11-06)

a. Smoke ~~detectors~~ ~~alarms~~ must be installed in sleeping rooms, hallways, on each level of the home, and as recommended by the local fire district. (4-11-06)( )

**b. Carbon monoxide (CO) alarms must be installed as recommended when:** ( )

i. The home is equipped with gas or other fuel-burning appliances or devices; or ( )

ii. An enclosed garage is attached to the home. ( )

c. Unvented combustion devices of any kind are prohibited from use inside the home. ( )

~~bd.~~ Any locks installed on exit doors must be easily opened from the inside without the use of keys or any special knowledge. (4-11-06)( )

~~ce.~~ An electric Pportable heating devices ~~of any kind are prohibited~~ must only be used under the following conditions: (4-11-06)( )

i. The unit is maintained in good working order and without obvious damage or fraying of the cord; ( )

ii. The heating element does not exceed two hundred twelve degrees Fahrenheit (212°F); ( )

iii. The user complies with safety labels, which are to remain on the unit; ( )

iv. The unit is equipped with automatic shut-off protection when tipped over; and ( )

v. The unit is operated under direct supervision and at least thirty-six (36) inches away from combustibles including furnishings, bedding, and blankets. ( )

~~df.~~ Homes that use fuel-fired stoves must provide adequate railings or other approved protection designed to prevent ~~the residents~~ from coming into contact with the stove surfaces, as appropriate for his functional and cognitive ability. (4-11-06)( )

~~eg.~~ Each resident's sleeping room ~~will~~ must have at least one (1) door or window that can be easily opened from the inside and leads directly to the outside. If a window is used as a means of egress/ingress, the following conditions must be met: ( )

i. The window sill height must not be more than forty-four (44) inches above the finished floor; ( )

ii. The Window openings ~~must~~ be at least twenty ~~two~~ (22) inches in width and twenty-four (24) inches in height; and (4-11-06)( )

iii. If the sleeping room is in a below-ground basement, the window must open into a window well through which the resident can easily exit. ( )

~~fh.~~ Flammable or highly combustible materials must ~~not~~ be stored ~~in the home;~~ safely. The provider must take necessary precautions to protect the resident from obtaining flammable materials as appropriate for his functional and cognitive ability. (4-11-06)( )



~~g.i.~~ Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves; ~~(4-11-06)( )~~

~~h.j.~~ ~~A P~~portable fire extinguishers must be mounted ~~throughout on each level of~~ the home ~~according to the configuration of the home.~~ ~~The L~~ocation of fire extinguishers is subject to Department approval. All extinguishers must be at least five (5) pound ~~dry chemical~~ multipurpose ~~2A:10B:C~~ type ~~and~~; ~~(4-11-06)( )~~

~~h.k.~~ Electrical installations and equipment must comply with the applicable local and state electrical codes; ~~(4-11-06)( )~~

~~h.l.~~ ~~Solid f~~uel-fired heating devices must be approved by the local ~~building/~~ heating/-venting/air conditioning (HVAC) board. ~~Openings in all solid fuel heating devices must have a door constructed of heat tempered glass or other approved material;~~ ~~(4-11-06)( )~~

~~h.m.~~ Exits must be free from obstruction; ~~(4-11-06)( )~~

~~h.n.~~ ~~Doorways in the p~~aths of travel to ~~an~~ exits and all exit doorways must be at least twenty-eight (28) inches wide; ~~(4-11-06)( )~~

~~h.o.~~ The door into each bathroom ~~and sleeping room~~ must unlock from ~~the outside both sides, if equipped with a lock,~~ in case of an emergency. ~~(4-11-06)( )~~

**03. Smoking.** Smoking is a fire hazard. The ~~home provider~~ may choose to allow or not allow smoking. If the ~~home provider~~ chooses to allow smoking, ~~he~~ must reduce the risk of fire by: ~~(4-11-06)( )~~

a. Prohibiting smoking in any area where flammable liquids, gases, or oxidizers are in use or stored; (4-11-06)

b. Prohibiting residents from smoking in bed; and (4-11-06)

c. Prohibiting unsupervised smoking by ~~the~~ residents unless unsupervised smoking is ~~specifically~~ allowed in ~~the his~~ plan of service. ~~(4-11-06)( )~~

**04. Emergency Preparedness.** Each ~~certified family home will~~ ~~provider must~~ develop and implement a ~~written emergency preparedness~~ plan. ~~for emergencies including~~ ~~The provider must review the emergency plan with the resident(s), or his representative, at admission and at least every six (6) months thereafter. The plan must address the following:~~ ( )

~~a.~~ ~~e~~vacuation of the home-, ~~including:~~ ~~The emergency plan must be reviewed with residents at admission and at least every six (6) months thereafter. This review must be documented in each resident's individual file.~~ ~~(4-11-06)( )~~

~~i.~~ ~~A floor plan of the home depicting at least two (2) routes of escape from each room;~~ ( )

~~ii.~~ ~~A designated meeting area indicated on the floor plan where all members of the household will congregate upon evacuation of the home; and~~ ( )

~~iii.~~ ~~The person responsible to take a head-count at the designated meeting area and relay information to firefighters regarding the probable whereabouts in the home of missing individuals.~~ ( )

~~b.~~ ~~Emergency situations in which people are confined to the home for a period of at least seventy-two (72) hours and considering adequate food, water, and medications during that time;~~ ( )

~~c.~~ ~~Emergency situations in which people are ordered evacuated from the home, including pre-arranged plans to shelter within the local community and in a town outside the local community, and considering the necessary supplies that will be kept in a state of preparedness for quick evacuation; and~~ ( )

- d.** Procedures for any situation in which the provider is incapacitated and unable to provide services. ( )
- 05. Fire Drills.** ~~Homes~~ The provider must conduct and document fire drills at least quarterly. ( )
- a.** The provider must demonstrate the ability to evacuate all persons from the home to a point of safety outside the home within three (3) minutes. ( )
- b.** Residents who are physically medically unable to exit unassisted are exempt from physical participation in the drill if the provider has an effective evacuation plan for such residents and discusses the plan with the resident at the time of the drill. (4-11-06)( )
- c.** Documentation, which may consist of video recordings or written logs, must include the following: ( )
- i.** The date and time of the drill; ( )
- ii.** The length of time for all persons able to participate in the drill to evacuate from the home; ( )
- iii.** The name or likeness of each caregiver who participated in the drill; and ( )
- iv.** The name or likeness of each resident and whether the resident participated in the drill. ( )
- 06. Report of Fire.** A separate report on each fire incident occurring within the home must be submitted to the Department within thirty (30) calendar days of the occurrence as described in Section 210 of these rules. The report must include date of incident, origin, extent of damage, how the fire was extinguished, and injuries, if any. (4-11-06)
- 07. Maintenance of Equipment.** The home provider will must assure that all equipment is properly maintained. (4-11-06)( )
- a.** The ~~s~~Smoke detectors and carbon monoxide alarms must be tested at least monthly and a written record of the test results maintained on file; (4-11-06)( )
- b.** If the smoke or carbon monoxide alarm has replaceable batteries, replacement of the batteries must occur at least every six (6) months or as indicated by a low battery, whichever occurs first. ( )
- c.** A smoke or carbon monoxide alarm must be replaced at the end of its useful life as indicated by the manufacturer. ( )
- ~~b~~d.** Portable fire extinguishers must be serviced annually by an outside servicing agency or when the quarterly examination reveals issues with the extinguisher as described under Subsection 600.07.e. of this rule. Fire extinguishers purchased in the last twelve (12) months are exempt from annual service if the home provider has a dated receipt on file. ( )
- e.** All portable fire extinguishers must be examined at least quarterly by the provider or a knowledgeable family member of the household, as indicated by his initials and date on a log, to determine that: (4-11-06)( )
- i.** The extinguisher is in its designated location; (4-11-06)
- ii.** Seals or tamper indicators are not broken and the safety pin is in place; (4-11-06)( )
- iii.** The extinguisher has not been physically damaged; (4-11-06)
- iv.** The extinguisher does not have any obvious defects, such as leaks; and (4-11-06)( )

v. ~~Inspecting tags on each extinguisher show at least the initials of the person making the quarterly examinations and the date of the examinations.~~ The nozzle is unobstructed; and (4-11-06)(    )

vi. Chemicals are prevented from settling and clumping by repeatedly tipping the extinguisher upside down and right-side up. (    )

ef. Fuel-fired heating systems must be inspected for safe operation, serviced if necessary, and approved at least annually by person(s) in the business of servicing these systems. The inspection records must be maintained on file in the home. (4-11-06)(    )

601. -- 699. (RESERVED)

700. HOME CONSTRUCTION AND PHYSICAL HOME STANDARDS.

01. **General Requirements.** Any residence used as a certified family home must be suitable for that use. Certified family homes must only be located in buildings intended for residential use. (4-11-06)(    )

a. Remodeling or additions to ~~the homes~~ must be consistent with residential use of the property and must conform to local building standards including obtaining building permits as required by the local jurisdiction. ~~Remodeling that is not consistent with the general practice of the neighborhood is not permitted. Examples may include converting garages to bedrooms or constructing large buildings which overwhelm the lot.~~ (4-11-06)(    )

b. All homes are subject to Department approval. (4-11-06)

02. **Walls and Floors.** Walls and floors must withstand frequent cleaning. Walls in sleeping rooms must extend from floor to ceiling. (4-11-06)

03. **Telephone.** There must either be a landline telephone ~~in the home that is accessible to all residents. The resident must have adequate privacy while using the telephone. The telephone must be immediately available in case of an emergency. Emergency numbers must be posted near the telephone.~~ or an enhanced 911-compliant cell phone available to the resident. (4-11-06)(    )

a. If the home provides a cell phone for the resident's use, the provider must obtain documentation from the service carrier that the cell phone is enhanced 911-compliant. (    )

b. The telephone or cell phone must: (    )

i. Be immediately available in case of an emergency; (    )

ii. Be functional and operational at all times, including having dependable service; (    )

iii. Be programmed with general emergency phone numbers and the emergency contacts for the resident, or alternatively, such numbers must be posted near the telephone; and (    )

iv. Be accessible to the resident throughout the day, including night hours, with unlimited usage and adequate privacy. (    )

04. **Toilet Facilities and Bathrooms.** ~~Each certified family~~ The home must contain: (4-11-06)(    )

a. At least one (1) flush toilet, one (1) tub or shower, and one (1) ~~lavatory~~ sink with a mirror; (4-11-06)(    )

b. Toilet ~~facilities~~ and shower or bathroomsing facilities must be separated from all rooms by solid walls or partitions; (4-11-06)(    )

c. ~~All~~ Each room containing a toilet, shower, or facilities and ~~bathrooms~~ must have either a window that is easily opened to the outside, or forced ventilation to the outside; (4-11-06)(    )

- d. Tubs, showers, and ~~lavatories~~ sinks must be connected to hot and cold running water; and (4-11-06)( )
- e. Access to ~~resident~~ toilet facilities and bathrooms designated for the resident's use must not require ~~a resident~~ him to pass through another person's sleeping room ~~to reach the toilet or bath.~~ (4-11-06)( )
- 05. Accessibility for Residents with Physical and Sensory Impairments.** Homes A provider choosing to provide services to a residents who ~~have~~ has difficulty with mobility or who ~~have~~ has sensory impairments must assure the physical environment meets the needs of the resident and maximizes independent mobility and use of appliances, bathroom facilities, and living areas. The home must provide necessary accommodations that meet the "American With Disabilities Act Accessibility Guidelines--Standards for Accessible Design (SFAD)," as incorporated by reference in Section 004 of these rules and as described below according to the individual resident's needs: (4-11-06)( )
- a. A ramp that complies with ~~the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.8~~ Section 405 of the SFAD. Elevators or lifts that comply with Sections 409 and 410, respectively, may be utilized in place of a ramp; (4-11-06)( )
- b. ~~Bathrooms and~~ Doorways large enough to allow easy passage of a wheelchair and that comply with the ~~ADAAG 4.13~~ Subsection 404.2.3 of the SFAD; (4-11-06)( )
- c. Toilet and bathing facilities that comply with ~~the ADAAG 4.16 and 4.23~~ Sections 603 and 604 of the SFAD; (4-11-06)( )
- d. Sinks that comply with ~~the ADAAG 4.24~~ Section 606 of the SFAD; (4-11-06)( )
- e. Grab bars in resident toilet facilities and bathrooms that comply with ~~the ADAAG 4.26~~ Section 609 of the SFAD; (4-11-06)( )
- f. Bathtubs and or shower stalls that comply with ~~ADAAG 4.20 and 4.21~~ Sections 607 and 608 of the SFAD, respectively; (4-11-06)( )
- g. Non-retractable faucet handles that comply with ~~the ADAAG 4.19 and 4.27~~ Section 309.4 of the SFAD. Self-closing valves are not allowed; (4-11-06)( )
- h. Suitable handrails on both sides of all stairways leading into and out of the home that comply with ~~the ADAAG 4.9.4~~ Section 505 of the SFAD; and (4-11-06)( )
- i. Smoke and carbon monoxide alarms that comply with Section 702 of the SFAD. ( )
- 06. Storage Areas.** Adequate storage must be provided in addition to the required storage in resident sleeping rooms. (4-11-06)
- 07. Lighting.** Adequate lighting must be provided in all resident sleeping rooms and any other rooms accessed by the resident. (4-11-06)
- 08. Ventilation.** The home must be well ventilated and the provider must take precautions to prevent offensive odors. (4-11-06)
- 09. Heating and Cooling.** The temperature in the ~~certified family~~ home must be maintained at between seventy sixty-five degrees Fahrenheit (~~70~~65°F) or more and seventy eighty degrees Fahrenheit (80°F) during waking hours when residents or adult hourly care participants are at home, and sixty five degrees Fahrenheit (65°F) or more during sleeping hours or as defined in the plan of service. Wood stoves must not be the primary source of heat and The thermostat for the primary source of heat must be remotely located away from the wood stove, if applicable. (4-11-06)( )

10. **Plumbing.** All plumbing in the home must be in good working order and comply with local and state codes. All plumbing fixtures must be easily cleanable and maintained in good repair. (4-11-06)( )

11. **Resident Sleeping Rooms.** (4-11-06)( )

a. The ~~resident's~~ sleeping room must not be in an attic, stairway, hall, or any room commonly used for other than bedroom purposes. ( )

b. The ~~resident's~~ sleeping rooms may be in a below-ground basement or an upstairs room only if the following conditions are met: (4-11-06)( )

i. ~~The window must not open into a window well that cannot be exited. All other fire and life safety requirements for windows must be met~~ The resident is able to independently recognize an emergency and self-evacuate from his sleeping room without physical assistance or verbal cueing as assessed and indicated in his plan of service; or (4-11-06)( )

ii. The provider's sleeping room or the sleeping room of another responsible and able-bodied individual living in the home is located on the same level with the resident's sleeping room; and ( )

iii. The ~~basement must have~~ level of the home on which the resident's sleeping room is located has floors, ceilings, and walls which that are finished to the same degree as the rest of the home. ~~The sleeping room must meet all other requirements of these rules; and~~ (4-11-06)( )

iii. ~~The resident must be assessed through the plan of service to be capable of evacuating from the basement without assistance in an emergency.~~ (4-11-06)

~~bc.~~ Walls must run from floor to ceiling and doors must be solid. (4-11-06)( )

~~ed.~~ The resident must not occupy the same bedroom as the provider. The resident must not occupy the same bedroom as ~~the provider's family~~ a relative of the provider unless the ~~resident relative~~ is also a family member sibling of the resident; (4-11-06)( )

~~de.~~ The Ceiling heights in the sleeping rooms must be at least seven feet, six inches (7'6"); (4-11-06)( )

~~ef.~~ The Ssleeping rooms must have a closets equipped with a doors if the resident so chooses. ( )

i. Closet space shared by two (2) residents~~;~~ must have a substantial divider separating each resident's space. ( )

ii. Free-standing closets space must be deducted from the square footage in the sleeping room~~;~~and. (4-11-06)( )

~~fg.~~ The Ssleeping rooms must have at least one-hundred (100) square feet of floor space in a one (1) person sleeping room and at least one-hundred and sixty (160) square feet of floor space in a two (2) person sleeping room. (4-11-06)( )

## 701. MANUFACTURED HOMES AND MODULAR BUILDINGS.

01. **Use of Manufactured Homes and Modular Buildings.** Idaho Division of Building Safety (~~B~~DBS) approved modular buildings or U.S. Department of Housing and Urban Development (HUD) approved buildings may be approved for use as a certified family home when the home meets the following requirements: (4-7-06)( )

a. The manufactured or modular home meets the requirements of HUD or ~~B~~DBS requirements in accordance with state and federal regulations as of the date of manufacture. (4-7-06)( )

b. The manufactured or modular home meets the adopted standards and requirements of the local

jurisdiction in which the home is located. (4-7-06)( )

c. Recreational vehicles, commercial coaches, unregulated or unapproved modifications or additions to approved manufactured housing or modular buildings; ~~and will not be approved by the Department.~~ ( )

d. ~~M~~Manufactured housing constructed prior to June 15, 1976, ~~are~~ **is** prohibited for use as a certified family home without ~~DHW~~ assessment and approval **by the Department.** (4-7-06)( )

02. **Previously Certified.** A manufactured home approved for use as a certified family home before July 1, 2001, may continue to be certified when evaluated on a case-by-case basis. (4-7-11)

702. -- 709. (RESERVED)

710. **SITE REQUIREMENTS FOR CERTIFIED FAMILY HOMES.**

In addition to the requirements of Section 700 of these rules, ~~certified family~~ **the** homes must comply with the following site requirements: (4-11-06)( )

01. **Fire District.** The home must be in a lawfully constituted fire district. (4-11-06)

02. **Accessible Road.** The home must be served by an all-weather road kept open to motor vehicles at all times of the year. (4-11-06)

03. **Emergency Medical Services.** The home must be accessible to emergency medical services ~~within thirty (30) minutes driving time; and.~~ (4-11-06)( )

04. **Accessible to Services.** The home must be accessible ~~within thirty (30) minutes driving time~~ to necessary social, medical, and rehabilitation services. (4-11-06)( )

05. **House Number.** ~~The house number must be prominently displayed and plainly visible from the street.~~ ( )

711. -- 899. (RESERVED)

900. **EMERGENCY POWERS OF THE DIRECTOR.**

In the event of an emergency endangering the life or safety of a resident, the Director may summarily suspend or revoke any certified family home certificate. As soon thereafter as practical, the Director will provide an opportunity for a hearing in accordance with the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings."

901. **ENFORCEMENT PROCESS.**

If the Department finds that ~~a home~~ **the provider** does not ~~meet~~, or did not meet, a rule governing certified family homes, it may impose a remedy, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal. (4-11-06)( )

01. **Recommendation of Remedy.** In determining which remedy to recommend, the Department will consider the ~~home's~~ **provider's** compliance history, ~~change of ownership complaints,~~ **and** the number ~~of deficiencies,~~ scope, and severity of the deficiencies. Subject to these considerations, the Department may impose any of the following remedies: (4-11-06)( )

a. Ban on all admissions; ~~see in accordance with~~ Section 910 of these rules; (4-11-06)( )

b. Ban on admissions of residents with certain diagnosis; ~~see in accordance with~~ Section 911 of these rules; (4-11-06)( )

c. Summarily suspend the certificate and transfer residents; ~~see in accordance with~~ Section 912 of these rules; (4-11-06)( )

d. Issue a provisional certificate; ~~see in accordance with~~ Subsection ~~110.02909~~ of these rules; ~~or and~~ (4-11-06)( )

e. Revoke the home's certificate, ~~see in accordance with~~ Section 913 of these rules. (4-11-06)( )

**02. Notice of Enforcement Remedy.** The Department will give the home provider written notice of an enforcement remedy by certified mail or by personal service upon its decision. The notice will include the decision, the reason for the Department's decision, and how to appeal the decision subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (4-11-06)( )

**902. FAILURE TO COMPLY.**

The Department may ~~institute an action to~~ revoke the home's provider's certificate when ~~the Department it~~ determines ~~the home is out of compliance.~~ any of the following conditions exist: (4-11-06)( )

**01. Out of Compliance.** ~~A home~~ The provider has not complied with ~~a program requirement~~ any part of these rules within thirty (30) days of the date the home is found out of compliance with that requirement. (4-11-06)( )

**02. Lack of Progress.** ~~A home~~ The provider has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted the home's provider's plan of correction. (4-11-06)( )

**903. REPEATED NONCOMPLIANCE.**

When the Department ~~makes a~~ determinations of that a provider has repeated noncompliance with ~~respect to a home~~ any of these rules, the Department it may impose any of the enforcement remedies listed in Sections 909 through 913 of these rules. ~~The Department will monitor the home on an as-needed basis, until the home has demonstrated that it is in compliance with all program requirements governing homes and that it will remain in compliance.~~ (4-11-06)( )

**904. -- 909. (RESERVED)**

**909. ENFORCEMENT REMEDY OF PROVISIONAL CERTIFICATION.**

When the Department finds that the provider is unable to meet a standard required under these rules because of conditions that are not anticipated to continue beyond six (6) months and do not jeopardize the health or safety of the residents, the Department may grant a provisional certificate to the provider as described under Section 110 of these rules. ( )

**01. Conditions of Provisional Certification.** The Department, at its discretion, may impose conditions upon the provider, which will be included with the notice of provisional certification, if so imposed. Conditions are imposed to ensure the provider achieves compliance with the requirements of these rules and to aid the Department in monitoring the provider's performance during the provisional certification period. ( )

**02. Failure to Meet Conditions of Provisional Certification.** Failure by the provider to meet the conditions of a provisional certificate is cause for the Department to revoke the provider's certificate. ( )

**03. Certification or Revocation.** The Department, upon review of the provider's performance during the course of the provisional certification period, may either issue a certificate to the provider when the Department finds that the provider has achieved substantial compliance with these rules, or revoke the provider's certificate if the provider has failed to comply. ( )

**910. ENFORCEMENT REMEDY OF BAN ON ALL ADMISSIONS.**

All admissions to the home are banned pending satisfactory correction of all deficiencies. Bans will remain in effect until the Department determines that the home provider has achieved full compliance with all ~~program~~ requirements of these rules, or until a substitute remedy is imposed. (4-11-06)( )

**911. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS OF RESIDENT WITH SPECIFIC DIAGNOSIS.**

The Department may ban A admission of into the home any resident with a specific diagnosis is banned when the Department has determined the provider lacks the skill to provide adequate care to such a resident. A ban may be imposed for all prospective residents, both ~~state~~ publicly and privately funded, and will prevent the home from

admitting ~~the kinds of~~ residents with a specific diagnosis for whom ~~#~~ the provider has shown an inability to provide adequate care as described in Section 170 of these rules. (4-11-06)(    )

**912. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENT.**

The Department may summarily suspend ~~a home's~~ the provider's certificate and transfer the resident when convinced by a preponderance of the evidence that the resident's health and safety are in immediate jeopardy. (4-11-06)(    )

**913. ENFORCEMENT REMEDY OF REVOCATION OF CERTIFICATE.**

**01. Revocation of the Home's Certificate.** The Department may institute a revocation action when persuaded by a preponderance of the evidence that the home provider is not in substantial compliance with ~~this chapter~~ these rules. (4-11-06)(    )

**02. Causes for Revocation of the Certificate.** The Department may revoke any certificate ~~to include~~ for any of the following causes: (4-11-06)(    )

- a. The ~~certificate holder~~ provider has willfully misrepresented or omitted any of the following: (    )
  - ~~i.~~ i. ~~Information on the application or other documents pertinent to obtaining a certificate pertaining to his certification; or~~ (4-11-06)(    )
  - ii. Information obstructing an investigation. (    )
- b. The home is not in substantial compliance with these rules; (4-11-06)
- c. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; (4-11-06)
- d. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the home. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; (4-11-06)
- e. The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a certified family home; (4-11-06)(    )
- f. The provider has violated any of the conditions of a provisional certificate; (4-11-06)
- g. The home provider has one (1) or more core issues. ~~A core issue is a deficiency that endangers the health, safety, or welfare of any resident;~~ (4-11-06)(    )
- h. An accumulation of minor violations that, when taken as a whole, ~~would~~ constitute ~~a major deficiency~~ inadequate care; (4-11-06)(    )
- i. Repeat violations of any requirement of these rules or of the Idaho Code; (4-11-06)
- j. The home provider lacks the ability to properly care for the ~~type of~~ residents ~~residing at the home,~~ as required by these rules, or as directed by the Department; (4-11-06)(    )
- k. The home provider is not in substantial compliance with the provisions for services, resident rights, or admissions; (4-11-06)(    )
- l. ~~Certificate holder~~ The provider refuses to allow the certifying agent or other representative of the Department or Protection and Advocacy agencies full access to the home ~~environment,~~ home records, or the residents; (3-21-12)(    )
- ~~m.~~ Any condition exists in the home which endangers the health or safety of any resident; or (3-21-12)



~~#m.~~ The provider fails to pay the certification fee as specified in ~~Sub~~section 109.02 of these rules. The certification fee is considered delinquent if not paid within thirty (30) days of due date on the invoice.

~~(3-21-12)~~( )

**914. (RESERVED)**

**915. TRANSFER OF RESIDENT.**

The Department may require transfer of a resident from a certified family home to an alternative placement on the following grounds:

~~(4-11-06)~~( )

**01. Violation of Rules.** As a result of a violation of a provision of these rules or standards, the home provider is unable or unwilling to provide an adequate level of meals, lodging, personal assistance, or supervision of a resident.

~~(4-11-06)~~( )

**02. Violation of Resident's Rights.** A violation of a resident's rights provided in Section 39-3516, Idaho Code, or Section 200 of these rules.

(4-11-06)

**03. Immediate Jeopardy.** A violation of a provision of ~~this chapter~~ these rules, or applicable rules or standards, results in conditions that present an immediate jeopardy.

(4-11-06)

**916. -- 949. (RESERVED)**

**950. RIGHT TO SELL.**

Nothing contained in these rules limits the right of any home owner to sell, lease, mortgage, or close any certified family home in accordance with all applicable laws.

~~(4-11-06)~~( )

**951. -- 999. (RESERVED)**

## INCORPORATION BY REFERENCE SYNOPSIS

**In compliance with Section 67-5223(4), Idaho Code**, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently in full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the State of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

**DEPARTMENT OF HEALTH AND WELFARE  
IDAPA 16.03.19  
Proposed Rulemaking -- Docket No. 16-0319-1701**

*(Include a brief description that explains the differences between the version of the materials or documents that are currently incorporated by reference and the materials or documents that are being proposed for adoption in this rulemaking.)*

*(You may use the following table or write a brief summary of the differences)*

Incorporated Document Version/URL	IDAPA Section Number	Current Version of Incorporated Document	Substantive Changes in New Incorporation by Reference Version
<a href="https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm">The 2010 ADA Standards for Accessible Design</a>  <a href="https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm">https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm</a>	IDAPA 16.03.19.004	The Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part 36, Appendix A to Part 36 - Standards for Accessible Design	<ul style="list-style-type: none"> <li>• Ramps no longer must be at the least possible slope, but still must not exceed 1:12 ratio. Maximum cross slope changed from 1:50 to 1:48. Maximum rise set at 30 inches.</li> <li>• Requirements have been developed for elevators in private residences. Location of call buttons, lighting and signaling requirements are less prescriptive than commercial elevators.</li> <li>• Platform lifts (wheelchair lifts) shall not be operated by an attendant and must provide unassisted entry and exit from the lift. The platform sill shall not be located more than 1 inch from the landing.</li> <li>• Doors shall not have projections into the required clear opening lower than 34 inches above the floor; projections between 34 and 80</li> </ul>

Incorporated Document Version/URL	IDAPA Section Number	Current Version of Incorporated Document	Substantive Changes in New Incorporation by Reference Version
			<p>inches above the floor shall not exceed 4 inches.</p> <ul style="list-style-type: none"> <li>• Bathroom turning space given for circular or T-shape accessibility. Position of the toilet is specified for wheelchair accessible water closets, and must be arranged for either a left-hand or right-hand approach. Location of the toilet paper dispenser shall be 7-9 inches in front of the toilet, shall not be behind grab bars, and be between 15-48 inches above the floor.</li> <li>• Minimum knee and toe clearance depths under sinks specified, except for some kitchen spaces, wet bars, and under certain conditions with portable cabinetry. When multiple bowls of a sink are present, only one bowl must meet the knee and toe clearance depths.</li> <li>• Grab bars not required in residential dwelling units provided that reinforcement has been installed in walls located so as to permit installation of grab bars. Dimensions given for circular and non-circular cross sections. Installation shall generally be 33-36 inches above the finished floor.</li> <li>• Clearance for bathtubs allows for a lavatory at the control end, and if a permanent seat is provided at the head end, the clearance shall extend 12 inches beyond the wall. Specifications given for the locations of grab bars for bathtubs with certain types of seats. The shower spray unit hose length lowered from a minimum 60 inches to 59 inches, and the unit must have an on/off control. If the shower head is adjustable on a vertical bar, the bar</li> </ul>

Incorporated Document Version/URL	IDAPA Section Number	Current Version of Incorporated Document	Substantive Changes in New Incorporation by Reference Version
			<p>shall not obstruct the use of grab bars. Shower spray units shall deliver water that is 120°F maximum.</p> <ul style="list-style-type: none"> <li>• Shower stalls categorized into transfer type, roll-in type and alternate roll-in type with minimum specifications given for each, including location of grab bars and controls. Seats are not required in residential dwelling units provided that the shower compartment has reinforcement so as to permit the installation of seats. The shower spray unit hose length lowered from a minimum 60 inches to 59 inches, and the unit must have an on/off control. If the shower head is adjustable on a vertical bar, the bar shall not obstruct the use of grab bars. Shower spray units shall deliver water that is 120°F maximum.</li> <li>• Handrails shall be at a consistent height, 34-38 inches above the floor. Dimensions given for circular and non-circular cross sections.</li> </ul>

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**  
**16.05.03 – RULES GOVERNING CONTESTED CASE PROCEEDINGS**  
**AND DECLARATORY RULINGS**

**DOCKET NO. 16-0503-1701**

**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 16-107, 56-133, 56-135, 56-202, 56-204A, 56-216, 56-1003, 56-1004, and 56-1005, Idaho Code, 42 CFR Sections 431.221, 431.22, and 431.224.

**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 20, 2017.

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 being made to: meet court-ordered settlement agreements for expedited hearings and grievance processes for the Jeff D settlement agreement, comply with federal regulations, and provide benefits to consumers to use technological advances for filing of appeals for certain divisions, and to provide other needed internal appeals processes for divisional administrative reviews. Several changes are being made to remove and update obsolete language.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**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 Fund or any other funds for this rule change. This rulemaking is intended to be cost-neutral.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Department determined it was not feasible to do negotiated rulemaking because most of the changes being made are either required by court order, federal regulations, or need to be updated for technology and add divisional appeal processes. The diversity of these changes made it not feasible to hold negotiated rulemaking around the Department's internal appeal processes.

**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 Heidi Graham at (208) 334-5617.

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 27, 2017.

DATED this 4th day of August, 2017.

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](mailto:dhwrules@dhw.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0503-1701  
(Only Those Sections With Amendments Are Shown.)

005. ADMINISTRATIVE PROCEDURES SECTION.

**01. Petitions.** Petitions for adoption of rules; and petitions for declaratory rulings; ~~and appeals~~ must be filed with: Administrative Procedures Section, 10th Floor, 450 West State Street, P.O. Box 83720, Boise, ID 83720-0036. Phone: (208) 334-5564; FAX: (208) 639-5741; email: [APS@dhw.idaho.gov](mailto:APS@dhw.idaho.gov). (4-11-06)( )

**02. Appeals.** Appeals may be filed with the Division, Program, or the Administrative Procedures Section, as provided on the decision notice or in these rules. ( )

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

**01. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (4-11-06)

**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. (4-11-06)

**03. Street Address.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (4-11-06)

**04. Telephone.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (4-11-06)

**05. Internet Website.** The Department's internet website at <http://www.healthandwelfare.idaho.gov/>. (4-11-06)

**06. Administrative Procedures Section (APS).** The following is the contact information for the Administrative Procedures Coordinator: ( )

**a. Telephone No.:** (208) 334-5564; ( )

**b. FAX No.:** (208) 639-5741; and ( )

**c. E-Mail Address:** [APS@dhw.idaho.gov](mailto:APS@dhw.idaho.gov). ( )

(BREAK IN CONTINUITY OF SECTIONS)

[SECTION 124 HAS BEEN MOVED AND RENUMBERED TO PROPOSED SECTION 008]

**124008. REPRESENTATION ACCESS TO RECORDS OF INDIVIDUALS WITH DEVELOPMENTAL OR MENTAL DISABILITIES.**

~~Unless an individual, authorized representative or attorney provides a written declaration to the contrary, eligible individuals with developmental disabilities or mental illness are deemed to be represented by~~ The state Protection and Advocacy System established under 42 USC ~~6041~~ 15041, et seq., and 42 USC 10801 et seq., 29 USC 794e, et seq., and 42 USC 300d as designated by the Governor. ~~The protection and advocacy system~~ has access to records of ~~such~~ individuals who are clients of the system maintained by any program or institution of the Department if the individual has authorized or is unable to authorize the system to have such access, or does not have a legal guardian, conservator or other legal representative. ~~Service of documents will be made on the protection and advocacy system~~

~~and the individual. Unless the protection and advocacy system provides written notification to the Department that it will not be representing the individual, the system is an authorized representative.~~ (4-11-06)( )

~~008.~~—009. (RESERVED)

**010. DEFINITIONS AND ABBREVIATIONS.**

For the purposes of this chapter, the following definitions and abbreviations apply. ( )

**01. Administrative Review.** An informal review by a Division Administrator or designee, to determine whether a Department decision is correct. (5-8-09)

**02. Appellant.** A person or entity who files an appeal of Department action or inaction. (3-30-01)

**03. Board.** The Idaho Board of Health and Welfare. (3-30-01)

**04. Complainant.** A person or individual who has a grievance regarding Youth Empowerment Services (YES). ( )

**05. Cost Report.** A fiscal year report of provider costs required by the Medicare program and any supplemental schedules required by the Department. ( )

**06. Cost Settlement.** Final determinations of payment, based on cost reports, to a Medicaid-enrolled provider. ( )

~~047.~~ **Department.** The Idaho Department of Health and Welfare. (3-30-01)

~~058.~~ **Director.** The Director of the Department of Health and Welfare. (3-30-01)

~~069.~~ **Hearing Officer.** The person designated to preside over a particular hearing and any related proceedings. (3-30-01)

~~107.~~ **IPV.** Intentional program violation. (3-30-01)

~~0811.~~ **Intervenor.** Any person, other than an appellant or the Department, who requests to be admitted as a party in an appeal. (3-30-01)

**12. Managed Care Entity (MCE).** An entity contracted by Medicaid to administer Medicaid services, which may be a Prepaid Ambulatory Health Plan (PAHP), Prepaid Inpatient Health Plan (PIHP), or other Managed Care Organization (MCO) as defined in 42 CFR 438.2. As used in these rules, the term does not include service brokers or entities providing non-emergency medical transportation (NEMT) services. ( )

~~0913.~~ **Party.** An appellant, the Department and an intervenor, if intervention is permitted. (3-30-01)

**14. Youth Empowerment Services (YES) Program Participant.** A YES program participant, is an Idaho resident with a Serious Emotional Disturbance who: ( )

**a.** Is under the age of eighteen (18); ( )

**b.** Has a mental health condition described in the current Diagnostic and Statistical Manual of Mental Disorders (DSM) and diagnosable by a qualified professional operating within the scope of his practice as defined by Idaho state law; and ( )

**c.** Has a substantial functional impairment that is measured by and documented through the use of a standardized instrument conducted or supervised by a qualified clinician. ( )

**d.** A substance use disorder or development disorder alone does not constitute an eligible diagnosis, although one (1) or more of these conditions may coexist with an eligible mental health diagnosis. ( )

(BREAK IN CONTINUITY OF SECTIONS)

101. FILING OF APPEALS.

**01. Appeals.** Appeals must be filed in writing and state the appellant's name, address and phone number, and the remedy requested, ~~except that appeals of action relating to Food Stamps may be made verbally to Department staff by an individual or representative~~ unless otherwise provided in these rules. Appeals should be accompanied by a copy of the decision notice that is the subject of the appeal and state the reason for disagreement with the Department's action. ( )

**02. Time Limits for Filing Appeal.** Unless otherwise provided by statute or these rules, individuals who are aggrieved by a Department decision have twenty-eight (28) days from the date the decision is mailed to file an appeal. An appeal is filed when it is received by the Department or postmarked within the time limits ~~set forth~~ provided in the decision notice, or in these rules. (5-8-09)( )

(BREAK IN CONTINUITY OF SECTIONS)

103. PREHEARING CONFERENCE.

**01. Prehearing Conference.** The hearing officer may, upon written or other sufficient notice to all interested parties, hold a prehearing conference ~~to~~. The purpose of the prehearing conference is to: ( )

- a. ~~F~~ormulate or simplify the issues; ( )
- b. ~~O~~btain admissions or stipulations of fact and documents; ( )
- c. ~~I~~dentify whether there is any additional information that had not been presented to the Department with good cause; ( )
- d. ~~A~~rrange for exchange of proposed exhibits or prepared expert testimony; ( )
- e. ~~L~~imit the number of witnesses; ( )
- f. ~~D~~etermine the procedure at the hearing; and ~~to~~ ( )
- g. ~~D~~etermine any other matters which may expedite the orderly conduct and disposition of the proceeding. (3-30-01)( )

**02. Exception to Prehearing Conference.** The prehearing conference cannot be mandatory for any Division of Welfare benefit programs. The following apply: ( )

- a. Participation in the prehearing conference is optional for individuals seeking to appeal for any benefit through the Division of Welfare; and ( )
- b. A default order may not be entered for cases in which an individual does not participate in the prehearing conference involving benefits through the Division of Welfare. ( )

(BREAK IN CONTINUITY OF SECTIONS)

106. DEFAULT.

If a party fails to appear at a scheduled hearing or at any stage of a contested case, the hearing officer ~~must~~ may enter



a proposed default order against that party. The default order must be set aside if, within fourteen (14) days of the date of mailing, that party submits a written explanation for not appearing, which the hearing officer finds substantial and reasonable. (4-11-06)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**122. FILING OF DOCUMENTS IN AN APPEAL.**

All documents intended to be used as exhibits must be filed with the hearing officer. Such documents will be provided to every party at the time they are filed with the hearing officer, in person, ~~or~~ by first class mail, or as otherwise ordered by the hearing officer. Service by mail is complete when the document, properly addressed and stamped, is deposited in the United States or Statehouse mail. A certificate showing delivery to all parties will accompany all documents when they are filed with the hearing officer. (4-11-06)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**[SECTION 124 HAS BEEN MOVED AND RENUMBERED TO PROPOSED SECTION 008]**

**150. REVIEW OF PRELIMINARY ORDERS BY DEPARTMENT.**

Unless otherwise provided in these rules, ~~for~~ cases under the jurisdiction of the Department, either party may file a request for review with the Administrative Procedures Section not later than fourteen (14) days from the date the preliminary order was mailed. The request must identify all legal and factual bases of disagreement with the preliminary order. The Director or designee must allow for briefing by the parties and determines whether oral argument will be allowed. The Director or designee determines whether a transcript of the hearing is needed and if so, one will be provided by the party who requests review of the preliminary order. The Director or designee must exercise all of the decision-making power he would have had if he had presided over the hearing. (4-11-06)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**199. SPECIFIC CONTESTED CASE PROVISIONS.**

The following sections set forth of this chapter provide special requirements of various Department divisions or programs, which that supersede the general provisions of these rules insofar as to the extent that they are different ~~or inconsistent~~. ~~Sections 200 through 254 pertain to the programs in the Division of Welfare; Sections 300 and 301 pertain to the Division of Medicaid; and Sections 400 through 402 pertain to the Division of Health.~~ (3-30-01)( )

**200. DIVISION OF WELFARE: APPEALS.**

The provisions of ~~this s~~ Sections 200 through 299 of these rules govern the conduct of individual benefit hearings to determine eligibility for benefits or services in the Division of Welfare, including IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)," IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho," IDAPA 16.03.04, "Rules Governing the Food Stamp Program in Idaho," IDAPA 16.06.12, "Rules Governing the Idaho Child Care Program (ICCP)," IDAPA 16.04.14, "Rules Governing the Low Income Energy Assistance Program," IDAPA 16.04.02, "Idaho Telecommunication Service Assistance Program Rules," IDAPA 16.04.12, "Rules Governing the Individual and Family Grant Program," and IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." and its programs. (5-8-09)( )

**01. Division of Welfare Programs.** The following programs are covered under the following chapter of rules: ( )

**a. IDAPA 16.03.01. "Eligibility for Health Care Assistance for Families and Children";** ( )

**b. IDAPA 16.03.03. "Rules Governing Child Support Services";** ( )

- c. IDAPA 16.03.04, "Rules Governing the Food Stamp Program in Idaho"; ( )
  - d. IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)"; ( )
  - e. IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho"; ( )
  - f. IDAPA 16.04.14, "Rules Governing the Low Income Energy Assistance Program"; ( )
  - g. IDAPA 16.04.02, "Idaho Telecommunication Service Assistance Program Rules"; ( )
  - h. IDAPA 16.04.12, "Rules Governing the Individual and Family Grant Program"; and ( )
  - i. IDAPA 16.06.12, "Rules Governing the Idaho Child Care Program (ICCP)."; ( )
02. **Methods for Filing Appeals.** Requests for appeals may be made with the Division of Welfare as provided in Section 006 of these rules, using any one (1) of the following listed in this subsection: ( )
- a. Via the Department internet website; ( )
  - b. By telephone; ( )
  - c. Via mail; ( )
  - d. In person; and ( )
  - e. Other commonly available electronic means. ( )

**201. DIVISION OF WELFARE: TIME FOR FILING APPEAL.**

A decision issued by the Department in a Division of Welfare benefit program will be final and effective unless an individual or representative appeals within thirty (30) days from the date the decision was mailed, except that a recipient or applicant for Food Stamps has ninety (90) days to appeal. An individual or representative may also appeal when the Department delays in making an eligibility decision or making payment beyond the limits specified in the particular program within thirty (30) days after the action would have been taken if the Department had acted in a timely manner. (5-8-09)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**203. DIVISION OF WELFARE: WITHDRAWAL OF AN APPEAL.**

An appellant or representative may withdraw an appeal upon written request to the hearing officer using any one (1) of the methods listed in Section 200 of these rules. (5-8-09)( )

**204. DIVISION OF WELFARE: TIME LIMITS FOR COMPLETING HEARINGS.**

The Department must conduct the hearing relating to an individual's benefits and take action within ninety (90) days from the date the hearing request is received, unless as provided in Subsections 204.01 through 204.03 of this rule. ( )

01. Community Spouse Resources Allowance. When the hearing request concerns the computed amount of the Community Spouse Resource Allowance, the hearing will be held within thirty (30) days from the date the hearing request is received. ( )

02. Food Stamps. When the hearing relates to Food Stamps, the hearing, the decision of the hearing, and the notice regarding the outcome of the hearing will be completed within sixty (60) days from the date the hearing request is received. ( )

**03. Expedited Hearings.** The Department will expedite hearing requests from appellants ~~such as~~ for the following reasons: ( )

**a.** ~~Migrant farm workers who are planning to move before the hearing decision would normally be reached;~~ or (5-8-09)( )

**b.** ~~Individuals requesting an expedited fair hearing will be provided a hearing as required according to 42 CFR 431.224.~~ ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**298. DIVISION OF WELFARE: ~~BUREAU OF~~ CHILD SUPPORT SERVICES.**

~~A notice of license suspension becomes final and effective unless~~ In a child support enforcement proceeding, an individual or a representative ~~files an appeal within twenty one (21) days from the date the decision is mailed~~ may request a hearing after being served notice of license suspension or notice of an asset withholding order from the Financial Institution Data Match (FIDM) process. (5-8-09)( )

**01. Time Limits for Requesting a Hearing.** ( )

**a.** License Suspension. The licensee has twenty-one (21) days from the date of service of the notice either by personal service or certified mail, to request a hearing by filing with the Department to contest the suspension of license or licenses. A timely request for a hearing stays the suspension of the license or licenses through the issuance of the order by the Department. The Department will notify the licensing authority if the suspension is vacated or stayed. ( )

**b.** Financial Institution Data Match (FIDM). The obligor or co-owner has fourteen (14) days from the date of mailing the notice of asset withholding order to request a hearing in writing to contest the asset being withheld. Upon receiving a timely request for hearing, the Department will notify the financial institution that it must continue to hold the asset until an order is issued and the Department provides instructions for the disposition of the asset. If the obligor or co-owner does not file a timely request for hearing, the Department will notify the financial institution to promptly surrender the amount of the asset that has been frozen to the Department. ( )

**02. Time Limits for Completing Hearings.** The Department will hold an administrative hearing within thirty (30) days from the day the Department receives the request for hearing to contest asset withholding from the FIDM process. ( )

**03. Default.** ( )

**a.** Licensing Authority. If the licensee fails to make a timely request for a hearing or fails to appear at the hearing without good cause, the Department will issue an order of Default suspending the license or licenses. On receipt of the final order from the Department, the licensing authority will suspend the license effective the date the order became final, without additional review or hearing. ( )

**b.** Financial Institution. If the obligor or co-owner of the asset fails to appear at the hearing without good cause, the Department will issue an order of Default upholding the asset withholding order. On receipt of the final order from the Department, the financial institution will promptly surrender the amount of the asset that has been frozen to the Department. ( )

**04. Time for Filing an Appeal.** An order of suspension or asset withholding order issued by a hearing officer of the Department will be final and conclusive between the parties unless a petition for review is filed within twenty-eight (28) days with the district court. ( )

**299. (RESERVED)**

300. DIVISIONS OF MEDICAID ~~AND LICENSING AND CERTIFICATION~~: ~~REQUEST FOR ADMINISTRATIVE REVIEWS~~ **FOR PROVIDERS AND FACILITIES.**

**01. Written Request.** An action relating to ~~licensure or certification, billing or reimbursement~~ audited cost reports or Medicaid cost settlement calculations required by administrative rule is final and effective unless the provider or facility requests in writing an administrative review within ~~twenty-eight~~ thirty (2830) days after the notice is mailed. The request must: ( )

- a. ~~Be~~ signed by the licensed administrator of the facility or by the provider; ( )
- b. ~~Identify~~ the challenged decision, ~~and~~; ( )
- c. ~~State~~ specifically the grounds for its contention that the decision was erroneous; ~~and~~ ( )
- d. Include copies of any documentation on which the facility or provider intends to rely to support its position. ( )

**02. Review Conference.** The parties must clarify and attempt to resolve the issues at the review conference, which must be held within ~~twenty-eight~~ thirty (2830) days after the request for the administrative review is received. The thirty (30) day requirement may be extended when both parties agree in writing to a specified later date. If the Department determines that additional documentation is needed to resolve the issues, a second session of the conference may be scheduled within thirty (30) days of the initial conference. This second session date may be extended when both parties agree in writing to a specified later date. ( )

**03. Department Decision.** The Department will provide a written decision to the facility or provider. (5-8-09)( )

301. DIVISIONS OF MEDICAID ~~AND LICENSING AND CERTIFICATION~~: SCOPE OF **APPEAL HEARING.**

If the Department's decision after the administrative review is appealed, only issues and documentation that were presented in the administrative review will be admissible in the appeal hearing. (4-11-06)( )

**302. DIVISION OF MEDICAID: APPEALS PROCESS FOR MEDICAID PARTICIPANTS.**

**01. Medicaid Participant Appeals.** Medicaid participants whose appeals are not related to services delivered through a Managed Care Entity (MCE), as defined in Section 010 of these rules, must use the appeals process provided in Sections 101 through 108 of these rules. ( )

**02. Medicaid Participant Appeals Related to Services Delivered Through Managed Care Entity.** ( )

a. Participants whose appeals are related to services delivered through a managed care entity must utilize the complaint, grievance, and appeal process required by the Department and the managed care contractor. ( )

b. Participants whose appeals are related to services delivered through a Managed Care Entity (MCE) must follow the appeals process in 42 CFR 438.402 through 42 CFR 438.408. ( )

**03. Expedited Fair Hearings for Medicaid Participants.** The Department will provide a process for expedited fair hearings for Medicaid participants in accordance with the provisions of 42.CFR 438.410. ( )

3023. -- 399. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

504. -- ~~959~~. (RESERVED)

**600. DIVISION OF LICENSING AND CERTIFICATION: REQUEST FOR ADMINISTRATIVE REVIEW.**

**01. Written Request.** An action relating to licensure or certification is final and effective unless the provider or facility requests in writing an administrative review within twenty-eight (28) days after the notice is mailed. The request must: ( )

**a.** Be signed by the licensed administrator of the facility, or by the provider; ( )

**b.** Identify the challenged decision; and ( )

**c.** State specifically the grounds for its contention that the decision was erroneous. ( )

**02. Review Conference.** An administrative review conference must be held within twenty-eight (28) days of receipt of the request for the administrative review. The twenty-eight (28) day requirement may be extended when both parties agree in writing to a specified later date. The parties must clarify and attempt to resolve the issues during the administrative review conference. If the Department determines additional documentation is needed to resolve the issues, a second session of the review conference may be scheduled. ( )

**03. Department Decision.** The Department will provide a written decision to the facility or provider within thirty (30) days of the conclusion of the administrative review conference. ( )

601. -- 699. (RESERVED)

**700. DIVISION OF BEHAVIORAL HEALTH: REQUEST FOR ADMINISTRATIVE REVIEW.**

**01. Written Request.** An action relating to program approval is final and effective unless the provider or facility requests in writing an administrative review within twenty-eight (28) days after the notice is mailed. The request must: ( )

**a.** Be signed by the program administrator of the facility; ( )

**b.** Identify the challenged decision; and ( )

**c.** State specifically the grounds for its contention that the decision was erroneous. ( )

**02. Review Conference.** The parties must clarify and attempt to resolve the issues at the review conference, which must be held within twenty-eight (28) days after the request for the administrative review. The twenty-eight (28) day requirement may be extended when both parties agree in writing to a specified later date. If the Department determines that additional documentation is needed to resolve the issues, a second session of the conference may be scheduled. ( )

**03. Department Decision.** The Department will provide a written decision to the facility or provider within thirty (30) days of the conclusion of the administrative review conference. ( )

701. -- 749. (RESERVED)

**750. DIVISION OF BEHAVIORAL HEALTH: YOUTH EMPOWERMENT SERVICES (YES).**

Contested case proceedings for non-Medicaid Youth Empowerment Services (YES) are governed by the general provisions of this chapter, unless otherwise specified in Section 751 of these rules. ( )

**751. DIVISION OF BEHAVIORAL HEALTH: YOUTH EMPOWERMENT SERVICES (YES) GRIEVANCE PROCESS.**

**01. Grievance.** Individuals, family members, or legal guardians may choose to submit a written

request to participate in this grievance process regarding non-Medicaid matters related to YES services. A grievance is a statement of dissatisfaction about any matter other than an adverse benefit determination. ( )

**02. Grievance Content. A grievance must include:** ( )

**a.** The full name, mailing address, phone numbers, and e-mail contact for the individual who is the complainant using YES services; ( )

**b.** The full name, mailing address, phone numbers, and e-mail contact of the person submitting the grievance on behalf of the complainant; ( )

**c.** A detailed explanation of the decision or non-Medicaid matter related to YES services that is being contested from the perspective of the complainant; and ( )

**d.** Any steps that have already been taken to resolve the issue. ( )

**03. Department Response to Grievance. The Department will respond to the complainant within sixty (60) days of receipt of the grievance on its findings. The grievance process may include gathering additional information from involved parties and may run concurrent to the fair hearing process.** ( )

**a.** The Department will address concerns related to dissatisfaction with a process or a provider at the lowest or most appropriate organizational level possible. ( )

**b.** The Department will document the filing of the grievance and the outcome in its response to the complainant. ( )

**04. Expedited Hearings. The Division of Behavioral Health will provide expedited hearings for non-Medicaid eligible YES individuals in compliance with 42 CFR 431 or 438, as applicable.** ( )

**752. -- 999. (RESERVED)**

Here are the CFR sections that support our requests for rule changes:

1. Requesting/Dismissing hearings:

**42§431.221 Request for hearing.**

(a)(1) The agency must establish procedures that permit an individual, or an authorized representative as defined at §435.923 of this chapter, to—

(i) Submit a hearing request via any of the modalities described in §435.907(a) of this chapter, except that the requirement to establish procedures for submission of a fair hearing request described in §435.907(a)(1), (2) and (5) of this chapter (relating to submissions via Internet Web site, telephone and other electronic means) is effective no later than the date described in §435.1200(i) of this chapter; and

(ii) Include in a hearing request submitted under paragraph (a)(1)(i) of this section, a request for an expedited fair hearing.

(2) [Reserved]

(b) The agency may not limit or interfere with the applicant's or beneficiary's freedom to make a request for a hearing.

(c) The agency may assist the applicant or beneficiary in submitting and processing his request.

(d) The agency must allow the applicant or beneficiary a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearings.

**§431.223 Denial or dismissal of request for a hearing.**

The agency may deny or dismiss a request for a hearing if—

(a) The applicant or beneficiary withdraws the request. The agency must accept withdrawal of a fair hearing request via any of the modalities available per §431.221(a)(1)(i). For telephonic hearing withdrawals, the agency must record the individual's statement and telephonic signature. For telephonic, online and other electronic withdrawals, the agency must send the affected individual written confirmation, via regular mail or electronic notification in accordance with the individual's election under §435.918(a) of this chapter.

2. Expedited Appeals:

**§431.224 Expedited appeals.**

(a) *General rule.* (1) The agency must establish and maintain an expedited fair hearing process for individuals to request an expedited fair hearing, if the agency determines that the time otherwise permitted for a hearing under §431.244(f)(1) could jeopardize the individual's life, health or ability to attain, maintain, or regain maximum function.

(2) The agency must take final administrative action within the period of time permitted under §431.244(f)(3) if the agency determines that the individual meets the criteria for an expedited fair hearing in paragraph (a)(1) of this section.

3. (b) *Notice.* The agency must notify the individual whether the request is granted or denied as expeditiously as possible. Such notice must be provided orally or through electronic means in accordance with §435.918 of this chapter, if consistent with the individual's election under such section; if oral notice is provided, the agency must follow up with written notice, which may be through electronic means if consistent with the individual's election under §435.918.

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(2) The agency must take final administrative action within the period of time permitted under §431.244(f)(3) if the agency determines that the individual meets the criteria for an expedited fair hearing in paragraph (a)(1) of this section.

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*Effective date: January 20, 2017*