

# ***IDAHO ADMINISTRATIVE BULLETIN***

## ***Table of Contents***

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### **IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT**

11.03.01 - IDAHO STATE FORENSIC LABORATORY RULES GOVERNING ALCOHOL TESTING DOCKET NO. 11-0301-9801 NOTICE OF TEMPORARY RULE.....	7
---	---

### **IDAPA 13 - DEPARTMENT OF FISH AND GAME**

13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS DOCKET NO. 13-0109-9802 NOTICE OF TEMPORARY RULES.....	10
--	----

### **IDAPA 15 - OFFICE OF THE GOVERNOR**

15.01.01 - RULES GOVERNING IDAHO SENIOR SERVICES PROGRAM IDAHO COMMISSION ON AGING DOCKET NO. 15-0101-9801 NOTICE OF TEMPORARY RULES.....	16
15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION SERVICES IDAHO COMMISSION ON AGING DOCKET NO. 15-0102-9801 NOTICE OF TEMPORARY RULES.....	30
15.01.03 - RULES GOVERNING OMBUDSMAN FOR THE ELDERLY IDAHO COMMISSION ON AGING DOCKET NO. 15-0103-9801 NOTICE OF TEMPORARY RULES.....	32
15.01.20 - RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS IDAHO COMMISSION ON AGING DOCKET NO. 15-0120-9801 NOTICE OF TEMPORARY RULES.....	35
15.01.21 - RULES GOVERNING OLDER AMERICANS ACT SERVICES IDAHO COMMISSION ON AGING DOCKET NO. 15-0121-9801 NOTICE OF TEMPORARY RULES.....	38

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

16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO  
DOCKET NO. 16-0101-9801  
NOTICE OF NEGOTIATED RULEMAKING ..... 41

16.01.02 - WATER QUALITY STANDARDS AND WASTEWATER  
TREATMENT REQUIREMENTS  
DOCKET NO. 16-0102-9701  
NOTICE OF CORRECTION TO PENDING RULE AND TEMPORARY RULE ..... 42

DOCKET NO. 16-0102-9702  
NOTICE OF CORRECTION TO PENDING RULE AND TEMPORARY RULE ..... 46

16.01.06 - SOLID WASTE MANAGEMENT RULES AND STANDARDS  
DOCKET NO. 16-0106-9801  
NOTICE OF PROPOSED RULE ..... 50

16.02.03 - RULES GOVERNING EMERGENCY MEDICAL SERVICES  
DOCKET NO. 16-0203-9801  
NOTICE OF INTENT TO PROMULGATE RULES  
(NEGOTIATED RULEMAKING) ..... 55

16.03.01 - RULES GOVERNING MEDICAID FOR FAMILIES AND CHILDREN  
DOCKET NO. 16-0301-9704  
NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE ..... 56

16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO  
DOCKET NO. 16-0304-9705  
NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE ..... 60

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO  
THE AGED, BLIND AND DISABLED  
DOCKET NO. 16-0305-9704  
NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE ..... 68

16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)  
DOCKET NO. 16-0308-9702  
NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE ..... 74

16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE  
DOCKET NO. 16-0309-9712  
NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE ..... 77

DOCKET NO. 16-0309-9713 NOTICE OF PENDING RULE.....	82
DOCKET NO. 16-0309-9714 NOTICE OF PENDING RULE.....	83
DOCKET NO. 16-0309-9715 NOTICE OF PENDING RULE.....	84
DOCKET NO. 16-0309-9716 NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE.....	85
DOCKET NO. 16-0309-9801 NOTICE OF TEMPORARY RULES.....	95
<b>16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT</b>	
DOCKET NO. 16-0310-9801 NOTICE OF TEMPORARY RULES.....	111
<b>16.04.14 - RULES GOVERNING LOW INCOME HOME ENERGY ASSISTANCE PROGRAM</b>	
DOCKET NO. 16-0414-9702 NOTICE OF PENDING RULE.....	114
<b>16.04.14 - RULES GOVERNING LOW INCOME HOME ENERGY ASSISTANCE PROGRAM</b>	
DOCKET NO. 16-0414-9703 NOTICE OF PENDING RULE.....	115
<b><u>IDAPA 35 - STATE TAX COMMISSION</u></b>	
<b>35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES</b>	
DOCKET NO. 35-0201-9702 NOTICE OF PENDING RULE.....	116
<b><u>IDAPA 38 - DEPARTMENT OF ADMINISTRATION</u></b>	
<b>38.04.04 - RULES GOVERNING CAPITOL MAIL PARKING</b>	
DOCKET NO. 38-0404-9702 NOTICE OF CORRECTION TO PENDING RULE.....	117

# Subjects Affected Index

## **IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT**

11.03.01 - IDAHO STATE FORENSIC LABORATORY RULES GOVERNING ALCOHOL TESTING DOCKET NO. 11-0301-9801	
004. DEFINITIONS.....	7
012. REQUIREMENTS FOR LABORATORY ALCOHOL ANALYSES.....	8
013. REQUIREMENTS FOR PERFORMING BREATH ALCOHOL TESTING.....	9

## **IDAPA 13 - DEPARTMENT OF FISH AND GAME**

13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS DOCKET NO. 13-0109-9802	
100. TAGS, STAMPS, PERMITS, AND VALIDATIONS.....	10
607. WILD TURKEY SEASONS, BAG AND POSSESSION LIMITS.....	12
800. WILD TURKEY CONTROLLED HUNT <u>AREA</u> DESCRIPTIONS.....	14

## **IDAPA 15 - OFFICE OF THE GOVERNOR**

15.01.01 - RULES GOVERNING IDAHO SENIOR SERVICES PROGRAM IDAHO COMMISSION ON AGING DOCKET NO. 15-0101-9801	
010. DEFINITIONS.....	16
026. FEES AND CLIENT CONTRIBUTIONS.....	19
029. DENIAL OF SERVICE.....	20
040. TERMINATION OF SERVICE.....	20
041. HOMEMAKER.....	21
042. CHORE.....	24
043. ADULT DAY CARE.....	25
056. CARE COORDINATION.....	26
15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION SERVICES IDAHO COMMISSION ON AGING DOCKET NO. 15-0102-9801	
031. INVESTIGATIVE REQUIREMENTS.....	30
032. SUPPORTIVE SERVICES AND CASE CLOSURE.....	31
15.01.03 - RULES GOVERNING OMBUDSMAN FOR THE ELDERLY IDAHO COMMISSION ON AGING DOCKET NO. 15-0103-9801	
021. STAFFING.....	32
032. HANDLING OF COMPLAINTS.....	33
033. ACCESS.....	33
15.01.20 - RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS IDAHO COMMISSION ON AGING DOCKET NO. 15-0120-9801	
010. DEFINITIONS.....	35
056. REPORTING REQUIREMENTS.....	36
068. COLLECTION AND ACCOUNTABILITY OF PARTICIPANT CONTRIBUTIONS.....	36
15.01.21 - RULES GOVERNING OLDER AMERICANS ACT SERVICES	

IDAHO COMMISSION ON AGING	
DOCKET NO. 15-0121-9801	
010. DEFINITIONS.....	38
011. NUTRITION SERVICES.....	39
031. LEGAL ASSISTANCE.....	40

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

16.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS	
DOCKET NO. 16-0102-9701	
130. SALMON BASIN.....	43
DOCKET NO. 16-0102-9702	
130.....SALMON BASIN.....	47
16.01.06 - SOLID WASTE MANAGEMENT RULES AND STANDARDS	
DOCKET NO. 16-0106-9801	
003. DEFINITIONS.....	51
994. COMMERCIAL SOLID WASTE SITING LICENSE FEE.....	53
995. COMMERCIAL SOLID WASTE SITING LICENSE APPLICATION.....	54
16.03.01 - RULES GOVERNING MEDICAID FOR FAMILIES AND CHILDREN	
DOCKET NO. 16-0301-9704	
204. CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT.....	57
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO	
DOCKET NO. 16-0304-9705	
204. CITIZENSHIP OR SATISFACTORY IMMIGRATION STATUS.....	61
382. RESOURCES EXCLUDED BY FEDERAL LAW.....	63
406. INCOME EXCLUDED BY FEDERAL LAW.....	65
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED	
DOCKET NO. 16-0305-9704	
102. CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT.....	69
167. FRAUDULENT MISREPRESENTATION OF RESIDENCY.....	71
605. CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT.....	71
648. (RESERVED).....	73
16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)	
DOCKET NO. 16-0308-9702	
131. CITIZENSHIP AND LEGAL NON-CITIZEN CRITERIA.....	75
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE	
DOCKET NO. 16-0309-9712	
079. INPATIENT PSYCHIATRIC HOSPITAL SERVICES.....	78
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE	
DOCKET NO. 16-0309-9713	
DOCKET NO. 16-0309-9716	
106. DURABLE MEDICAL EQUIPMENT AND MEDICAL SUPPLIES.....	86
107. OXYGEN AND RELATED EQUIPMENT.....	92
DOCKET NO. 16-0309-9801	

112. REHABILITATIVE SERVICES - - MENTAL HEALTH.....	95
115. CLINIC SERVICES -- MENTAL HEALTH CLINICS.....	100
116. TARGETED CASE MANAGEMENT FOR THE MENTALLY ILL.....	105
16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT	
DOCKET NO. 16-0310-9801	
701. REIMBURSEMENT - GENERAL.....	111
706. COST SETTLEMENTS.....	112

**IDAPA 38 - DEPARTMENT OF ADMINISTRATION**

38.04.04 - RULES GOVERNING CAPITOL MAILL PARKING	
DOCKET NO. 38-0404-9702	
003. ADMINISTRATIVE APPEALS.....	117

**IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT**

**11.03.01 - IDAHO STATE FORENSIC LABORATORY  
RULES GOVERNING ALCOHOL TESTING**

**DOCKET NO. 11-0301-9801**

**NOTICE OF TEMPORARY RULE**

**EFFECTIVE DATE:** These temporary rules are effective January 1, 1998.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Section 67-5201, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the supporting reasons for temporary rule making.

This amendment will give the Idaho Department of Law Enforcement the ability to develop methodology, approval and certification requirements for laboratories performing breath alcohol analysis, thereby reducing staff time committed to this program and better serving program participants.

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

The Idaho Department of Law Enforcement spends an inordinate amount of time and effort in tracking certifications of breath testing instruments, which has at times adversely impacted local law enforcement actions.

**FEE SUMMARY:** This rule is a temporary rule which does not impose or increase a fee or charge.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Dan Charboneau, Bureau Chief, Idaho Department of Law Enforcement, Bureau of Forensic Services, telephone (208) 884-7171.

DATED this 5th day of December, 1997.

Dan Charboneau, Bureau Chief  
Idaho Department of Law Enforcement  
Bureau of Forensic Services  
P.O. Box 700  
Meridian, ID 83680-0700  
(208) 884-7171  
(208) 884-7197 (FAX)

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**TEXT OF DOCKET NO. 13-0301-9801**

**004. DEFINITIONS.**

01. Alcohol. "Alcohol" shall mean the chemical compound, ethyl alcohol. (7-1-93)
02. Blood Alcohol Analysis. "Blood alcohol analysis" shall mean an analysis of blood to determine the concentration of alcohol present. (7-1-93)
03. Breath Alcohol Analysis. "Breath alcohol analysis" shall mean an analysis of breath to determine the concentration of alcohol present. (7-1-93)
04. Department. "Department" shall mean the Idaho Department of Law Enforcement. (7-1-93)

05. Laboratory. "Laboratory" shall mean the place at which specialized devices, instruments and methods are used by trained personnel to measure the concentration of alcohol in samples of blood, breath or urine for law enforcement purposes. (7-1-93)

06. Proficiency Testing. "Proficiency testing" shall mean a periodic analysis of specimens whose alcohol content is unknown to the testing laboratory, to evaluate the capability of that laboratory to perform accurate ~~analyses~~ analysis for alcohol concentration. (7-1-93)(1-1-98)T

07. Quality Control. "Quality control" shall mean an analysis of referenced samples whose alcohol content is known, which is performed with each batch of urine or blood ~~analyses~~ analysis to ensure that the laboratory's determination of alcohol concentration is reproducible and accurate. (7-1-93)(1-1-98)T

08. Urine Alcohol Analysis. "Urine alcohol analysis" shall mean an analysis of urine to determine the concentration of alcohol present. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**012. REQUIREMENTS FOR ~~BLOOD AND URINE~~ LABORATORY ALCOHOL ANALYSEIS.**

01. Laboratory. Any laboratory desiring to perform urine alcohol or blood alcohol ~~analyses~~ analysis shall meet the following standards: (7-1-93)(1-1-98)T

a. The laboratory shall prepare and maintain a written procedure governing its method of analysis, including guidelines for quality control and proficiency testing; (7-1-93)

b. The laboratory shall provide adequate facilities and space for the procedure used; (7-1-93)

c. Specimens shall be maintained in a secure storage area prior to analysis; (7-1-93)

d. All equipment, reagents and glassware necessary for the performance of the chosen procedure shall be on hand or readily available on the laboratory premises; (7-1-93)

e. The laboratory shall participate in approved proficiency testing and pass this proficiency testing according to standards set by the department. Failure to pass a proficiency test shall result in disapproval until the problem is corrected and a proficiency test is successfully completed; (7-1-93)

f. For a laboratory performing blood or urine alcohol ~~analyses~~ analysis, approval shall be awarded to the laboratory director or primary analyst responsible for that laboratory. The responsibility for the correct performance of tests in that laboratory rests with that person; however, the duty of performing such tests may be delegated to any person designated by such director or primary analyst; (7-1-93)(1-1-98)T

g. Urine samples shall be collected in clean, dry containers. (7-1-93)

02. Blood Collection. Blood collection shall be accomplished according to the following requirements: (7-1-93)

a. Blood samples shall be collected using sterile, dry syringes and hypodermic needles, or other equipment of equivalent sterility; (7-1-93)

b. The skin at the area of puncture shall be cleansed thoroughly and disinfected with an aqueous solution of a nonvolatile antiseptic. Alcohol or phenolic solutions shall not be used as a skin antiseptic; (7-1-93)

c. Blood specimens shall contain ten (10) milligrams of sodium fluoride per cubic centimeter of blood



plus an appropriate anticoagulant. (7-1-93)

03. Results. The results of ~~analyses~~ analysis on blood for alcohol concentration shall be reported in units of grams of alcohol per one hundred (100) cubic centimeters of whole blood. ~~(7-1-93)~~(1-1-98)T

04. Reported. The results of ~~analyses~~ analysis on urine for alcohol concentration shall be reported in units of grams of alcohol per sixty-seven (67) milliliters of urine. Results of alcohol ~~analyses~~ analysis of urine specimens shall be accompanied by a warning statement about the questionable value of urine alcohol results. ~~(7-1-93)~~(1-1-98)T

05. Records. All records regarding proficiency tests, quality control and results shall be retained for three (3) years. (7-1-93)

**013. REQUIREMENTS FOR PERFORMING BREATH ALCOHOL TESTING.**

01. Instruments. Breath testing instruments shall either have been approved by the department or shall be listed in the "Conforming Products List of Evidential Breath Measurement Devices" published in the Federal Register by the United States Department of Transportation, or appear in that list's successor whatever its current name may be. (7-1-93)

02. Report. Each direct breath testing instrument shall report alcohol concentration as grams of alcohol per two hundred ten (210) liters of breath. (7-1-93)

03. Administration. Breath tests shall be administered in conformity with standards established by the department. Standards shall be developed for each type of breath testing instrument used in Idaho, and such ~~standards~~ standard operating procedures shall be issued in the form of policy statements and training manuals. ~~(7-1-93)~~(1-1-98)T

04. Training. Each individual operator shall demonstrate that he has sufficient training to operate the instrument correctly. This shall be accomplished by successfully completing a training course approved by the department. Officers must retrain periodically as required by the department. (7-1-93)

05. Checks. Each breath testing instrument shall be checked at least once each calendar month for accuracy with a simulator solution provided by the department or by a source approved by the department. These checks shall be performed according to a procedure established by the department. (7-1-93)

a. ~~If the results of the simulator tests are acceptable, the department shall issue a notice that the instrument is approved for legal use, providing all other requirements of Section 013 have been met. Effective dates of this approval shall appear on the form.~~ (7-1-93)

b. ~~If the results of the simulator test are not acceptable, the department shall issue a notice that the instrument has been disapproved for legal use, with the effective date listed.~~ (7-1-93)

06. Records. All records regarding calibration checks, maintenance and results shall be retained for three (3) years. (7-1-93)

07. Deficiencies. Failure to Meet Any of the Conditions Listed in Sections 012 and 013. Any laboratory or breath testing instrument may be disapproved for failure to meet one or more of the requirements listed in Sections 012 and 013, and approval may be withheld until the deficiency is corrected. (7-1-93)

**IDAPA 13 - DEPARTMENT OF FISH AND GAME**  
**13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS**  
**DOCKET NO. 13-0109-9802**  
**NOTICE OF TEMPORARY RULES**

**EFFECTIVE DATE:** These temporary and proposed rules are effective December 15, 1997.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 36-104(b).

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for temporary rule-making:

To set the 1998 turkey seasons.

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

Confers a benefit.

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

None.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Tom Hemker, 208-334-2920.

DATED this 15th day of December 1997.

W. Dallas Burkhalter  
Deputy Attorney General  
Idaho Department of Fish and Game  
600 South Walnut  
PO Box 25  
Boise, ID 83707  
208-334-3715/FAX: 208-334-2148

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**TEXT OF DOCKET NO. 13-0109-9802**

**100. TAGS, STAMPS, PERMITS, AND VALIDATIONS.**

01. Pheasant, Quail, or Partridge. No person, seventeen (17) years of age or older, shall hunt pheasant, quail, or partridge anywhere within the state, except licensed shooting preserves, without having in his or her possession the appropriate hunting license that has been validated for upland game. The validation shall be valid from January 1 through December 31 of each year. (5-1-97)T

02. Ducks, Geese, or Brant. No person, seventeen (17) years of age or older, shall hunt ducks, geese, or brant anywhere within the state, without having in his or her possession the appropriate hunting license that has been validated for waterfowl. The validation shall be valid from January 1 through December 31 of each year. (5-1-97)T

03. Migratory Game Birds. No person shall hunt ducks, geese, brant, coots, common snipe, sandhill cranes, or mourning doves anywhere within the state, without having in his or her possession the appropriate hunting license that has been validated for the Federal Migratory Game Bird Harvest Information Program. The validation

shall be valid from January 1 through December 31 of each year. (8-1-97)T

04. Wild Turkey. No person shall hunt wild turkey without having in his or her possession the appropriate hunting license, tag, and controlled hunt permit. Persons obtaining and using tags, stamps, and permits must comply with the following requirements: (8-1-97)T

a. Tags issued for wild turkey are valid for any general season hunt. (7-1-93)

b. Permits for Controlled Hunts: Any person who receives a controlled hunt permit for wild turkey is prohibited from hunting in any ~~other~~ general wild turkey hunt. ~~(7-1-93)~~(12-15-97)T

c. Nonresident permit limitations: On controlled hunts with ten (10) or fewer permits, not more than one (1) permit will be issued to nonresidents. On controlled hunts with more than ten (10) permits, not more than ten percent (10%) of the permits may be issued to nonresidents. (8-1-97)T

d. Eligibility: The holders of valid hunting licenses are eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

i. Holders of a Type 208 Nongame Hunting License may not apply for any controlled hunt. (7-1-93)

ii. In the event a permit is issued based on erroneous information, the permit will be invalidated and the person will remain on the drawn list. (7-1-93)

iii. Hunters who harvest a turkey during the Spring season are ineligible to apply for controlled Fall permits. (12-15-97)T

e. Applications: Applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than February 15 for Spring hunts and May 31 for Fall hunts, annually. Applications must comply with the following requirements: ~~(2-7-95)~~(12-15-97)T

i. Holders of a Duplicate License (Type 501) must use their original license number to apply for a controlled hunt. Duplicate license numbers will not be accepted. (7-1-93)

ii. Only one (1) application card per person or group will be accepted. Additional application cards will result in all applicants being declared ineligible. (7-1-93)

iii. Fees: All applicants for controlled hunts must submit a non-refundable application fee with their application; one dollar (\$1) of this fee may be donated to the Citizens Against Poaching Program. If you are successful, you will be issued a permit that entitles you to purchase the appropriate controlled hunt tag, beginning April 1, at any license vendor or Fish and Game office by presenting your hunting license and controlled hunt permit. (8-1-97)T

iv. A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. (2-7-95)

v. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the same application. (2-7-95)

vi. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. (7-1-93)

vii. All unsuccessful spring wild turkey hunters may apply for a Fall turkey controlled hunt permit during the same calendar year. If successful in being drawn they must present their invalidated wild turkey tag at any Department office for exchange for a new Fall controlled hunt permit and tag. (12-15-97)T

f. Drawing information: Single or group applications which are not drawn for the first choice hunt

will automatically be entered into a second choice drawing provided the second choice hunt applied for has not been filled. (7-1-93)

g. Tag validation and attachment: Immediately after any wild turkey is killed, the turkey tag must be validated and securely attached to the wild turkey. (7-1-93)

h. To validate the tag, the hunter must cut out and completely remove two triangles on the border of the tag, one for the month and one for the day of the kill. (7-1-93)

i. The tag must remain attached so long as the turkey is in transit or storage. (7-1-93)

05. Early September Canada Goose Hunts. (7-31-96)T

a. Controlled Hunts: No person shall hunt Canada geese during controlled, early September seasons (September 1-15) without having in his or her possession the appropriate hunting license and controlled hunt permit. Persons obtaining and using controlled hunt permits must comply with the following requirements: (8-1-97)T

i. Applications: Applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than August 13, annually. Applications must comply with the following requirements:(8-1-97)T

ii. Fees: All applicants for controlled hunts must submit a nonrefundable application fee with their application; one dollar (\$1) of this fee may be donated to the Citizens Against Poaching Program. Successful applicants will be issued a permit that entitles them to hunt. (The Idaho waterfowl validation (waterfowl stamp) and the Federal Migratory Bird Stamp are required by any person sixteen (16) and seventeen (17) years of age and older, respectively (Idaho Code 36-414; Title 50 Code of Federal Regulations, Part 20)). (8-1-97)T

iii. Landowner Preference Permits: Landowner Preference Permits shall be the same as IDAPA 13.01.04.400.01 through 400.06. (7-31-96)T

iv. The following rules previously established for wild turkey also apply to early September Canada goose hunts: Subsections 100.03.b., 100.03.c., 100.03.d., 100.03.e.ii., 100.03.e.iv. through 100.03.e.vi., and 100.03.f. (7-31-96)T

v. Any controlled hunt permits for Canada geese that remain unsold after the controlled hunt drawing may be sold by the Department on a first-come, first-served basis. (8-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**607. WILD TURKEY SEASONS, BAG AND POSSESSION LIMITS.**

The following seasons, bag and possession limits shall apply: (10-26-94)

01. General Seasons: (2-7-95)

a. General Season: Game Management Units 1 and 2, (Except Farragut State Park and Farragut WMA) and Game Management Units 3, 4, 5, and 6 (see Section 700 for descriptions):  ~~Begins the third Monday after the second Monday of April and lasts fourteen (14) days~~  May 1 through May 14, annually. ~~(12-16-96)T~~(12-15-97)T

b. General season: Game Management Units 8, 8A, 10A, 11, 11A, 12, 13, 14, 15, 16, 18, 22, 31, 32, 32A, and 39 (see Section 700 for descriptions):  ~~Begins second Monday of April, and lasts twenty-eight (28) days~~  April 15 through May 14, annually. ~~(12-16-96)T~~(12-15-97)T

02. Controlled Hunts: There will be  ~~five~~  six hundred  ~~twenty~~  fifty-eight (52658) permits available annually for the following controlled hunts: ~~(12-16-96)T~~(12-15-97)T

a. ~~Starting the Saturday after the second Monday of April and lasting seven (7) days April 15 to April 21, annually: Hunts 9001, 9005, and 9008.~~ ~~(12-16-96)F(12-15-97)T~~

b. ~~Starting the second Saturday after the second Monday of April and lasting nine (9) days April 22 to April 30, annually: Hunts 9002, 9006, and 9009.~~ ~~(12-16-96)F(12-15-97)T~~

c. ~~Starting the third Monday after the second Monday of April and lasting fourteen (14) days May 1 to May 14, annually: Hunts 9007, and 9010.~~ ~~(12-16-96)F(12-15-97)T~~

d. ~~Starting the second Monday of April and lasting twenty-eight (28) days From April 15 to May 14: Hunt 9003.~~ ~~(12-16-96)F(12-15-97)T~~

e. ~~Starting the Saturday after the second third Monday of April and lasting nine (9) days: Hunt 9004.~~ ~~(12-16-96)F(12-15-97)T~~

f. October 1 to October 15, annually: Hunt 9011. (12-15-97)T

g. October 16 to October 31, annually: Hunt 9012. (12-15-97)T

03. ~~Bag and Possession Limits--Statewide: No person may take more than one (1) bearded wild turkey in any hunting season.~~ (12-16-96)T

04. ~~Youth Hunt. There will be special youth hunts for hunters aged not more than fourteen (14) on January 1 of the calendar year that the hunt occurs. Participants of these hunts will be required to attend orientation meetings and use department-sponsored mentors as stipulated by the director. The following hunt will be a youth hunt: Hunt 9004.~~ (12-16-96)T

05. ~~Controlled Hunt Areas and Number of Permits Issued Are as Follows:~~

Hunt	Controlled Hunt Area	Number of Permits
9001	901-1	125
9002	901-2	325
9003	938-1	<del>530</del>
9004	954-1	3
9005	968A-1	10
9006	968A-2	10
9007	968A-3	10
9008	977-1	<del>15</del>
9009	977-2	<del>15</del>
9010	977-3	<del>15</del>
<u>9011</u>	<u>977-4</u>	<u>50</u>
<u>9012</u>	<u>977-5</u>	<u>50</u>
		<del>528658</del>

~~(12-16-96)F(12-15-97)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**800. WILD TURKEY CONTROLLED HUNT AREA DESCRIPTIONS.**

01. Hunt Area 901-1. All of Game Management Units 1, 2, 3, 4, 5, and 6. (12-16-96)T
02. Hunt Area 901-2. All of Game Management Units 1, 2, 3, 4, 5, and 6. (12-16-96)T
03. Hunt Area 938-1. All of Game Management Unit 38 and that portion of Unit 32 in Payette County.  
~~(12-16-96)T~~(12-15-97)T
04. Hunt Area 954-1. All of Game Management Unit 54. (12-16-96)T
05. Hunt Area 968A-1. All of Game Management Unit 68A. (12-16-96)T
06. Hunt Area 968A-2. All of Game Management Unit 68A. (12-16-96)T
07. Hunt Area 968A-3. All of Game Management Unit 68A. (12-16-96)T
08. Hunt Area 977-1. Those portions of Game Management Units 73, 74, and 77 within Franklin  
County. (12-16-96)T
09. Hunt Area 977-2. Those portions of Game Management Units 73, 74, and 77 within Franklin  
County. (12-16-96)T
10. Hunt Area 977-3. Those portions of Game Management Units 73, 74, and 77 within Franklin  
County. (12-16-96)T
11. ~~Hunt Area 903-3. That portion of Game Management Unit 3 south of Interstate 90~~ Hunt Area 977-  
4. Those portions of Game Management Units 73, 74, and 77 within Franklin County. ~~(3-20-97)~~(12-15-97)T
12. ~~Hunt Area 903-4. That portion of Game Management Unit 3 north of Interstate 90~~ Hunt Area 977-  
5. Those portions of Game Management Units 73, 74, and 77 within Franklin County. ~~(3-20-97)~~(12-15-97)T
13. ~~Hunt Area 903-5. That portion of Game Management Unit 3 north of Interstate 90.~~ ~~(3-20-97)~~
14. ~~Hunt Area 903-6. That portion of Game Management Unit 3 north of Interstate 90.~~ ~~(3-20-97)~~
15. ~~Hunt Area 904-1. All of Game Management Unit 4.~~ ~~(3-20-97)~~
16. ~~Hunt Area 904-2. All of Game Management Unit 4.~~ ~~(3-20-97)~~
17. ~~Hunt Area 904-3. All of Game Management Unit 4.~~ ~~(3-20-97)~~
18. ~~Hunt Area 905-1. All of Game Management Unit 5.~~ ~~(3-20-97)~~
19. ~~Hunt Area 905-2. All of Game Management Unit 5.~~ ~~(3-20-97)~~
20. ~~Hunt Area 905-3. All of Game Management Unit 5.~~ ~~(3-20-97)~~
21. ~~Hunt Area 906-1. All of Game Management Unit 6.~~ ~~(3-20-97)~~
22. ~~Hunt Area 906-2. All of Game Management Unit 6.~~ ~~(3-20-97)~~
23. ~~Hunt Area 906-3. All of Game Management Unit 6.~~ ~~(3-20-97)~~

- 24. ~~Hunt Area 938-1. All of Game Management Unit 38. (3-20-97)~~
- 25. ~~Hunt Area 968A-1. All of Game Management Unit 68A. (3-20-97)~~
- 26. ~~Hunt Area 968A-2. All of Game Management Unit 68A. (3-20-97)~~
- 27. ~~Hunt Area 968A-3. All of Game Management Unit 68A. (3-20-97)~~
- 28. ~~Hunt Area 977-1. Those portions of Units 73, 74, and 77 within Franklin County. (3-20-97)~~
- 29. ~~Hunt Area 977-2. Those portions of Units 73, 74, and 77 within Franklin County. (3-20-97)~~
- 30. ~~Hunt Area 977-3. Those portions of Units 73, 74, and 77 within Franklin County. (3-20-97)~~

**IDAPA 15 - OFFICE OF THE GOVERNOR**  
**15.01.01 - RULES GOVERNING IDAHO SENIOR SERVICES PROGRAM**  
**IDAHO COMMISSION ON AGING**

**DOCKET NO. 15-0101-9801**

**NOTICE OF TEMPORARY RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1998.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section 67-5003, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for temporary rule-making:

These rules correct clerical and transcription errors. They also correct cross references to other chapters. They clarify services for which fees are required. Per request of Senator Grant Ipsen, they delete a rule requiring a one to six (1:6) staff ratio for adult day care services, delete entitlements from assistance that care coordinators will provide, and delete advocacy as a requirement of care coordination.

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

To protect the public health, safety, and welfare.

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

Fees are charged for care coordination, chore, homemaker, and respite according to a sliding fee scale based upon the client's income. This is authorized by Section 67-5008, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Ken Wilkes, 334-2219.

DATED this 22nd day of December, 1997.

Arlene D. Davidson  
Director  
Idaho Commission on Aging  
700 W. Jefferson, Room 108  
P.O. Box 83720  
Boise, Idaho 83720-0007  
Telephone: (208) 334-3833, Fax (208) 334-3033

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**TEXT OF DOCKET NO. 15-0101-9801**

**010. DEFINITIONS.**

01. Act. The Idaho Senior Services Act. Programs and services established in Idaho Code, Section 67-5001, et. seq., Idaho Code. (7-1-98)

02. Activities of Daily Living (ADL). Bathing, dressing, toileting, transferring, eating, walking. (7-1-98)



03. Adult Day Care. A structured day program which provides individually planned care, supervision, social interaction, and supportive services for frail older persons in a protective group setting, and provides relief and support for caregivers. (7-1-98)
04. Aging Network. The ICOA, it's AAAs and providers. (7-1-98)
05. Advance Directive. A Living Will or Durable Power of Attorney for healthcare executed under the Natural Death Act, 39-4501, Idaho Code. (7-1-98)
06. Area Agency on Aging (AAA). Local agency designated by the Idaho Commission on Aging, pursuant to the OAA (OAA) of 1965, as amended, that plans, develops, and implements services for older persons within a specified geographic area. (7-1-98)
07. Area Plan. Plan for aging programs and services which an AAA is required to submit to the Idaho Commission on Aging, in accordance with the OAA, in order to receive OAA funding. (7-1-98)
08. Care Coordinator. A licensed social worker, or licensed professional nurse (RN), or an individual with a BA or BS in a human services field and at least one (1) year's experience in service delivery to the service population. (7-1-98)
09. Care Coordination. Case management assistance in circumstances where the older person, their caregivers, or both, are experiencing diminished functioning capacities, personal conditions, or other characteristics which require the provision of services by formal service providers. Activities of care coordination include assessing needs, developing care plans, authorizing services among providers, follow-up and reassessment, as required. (7-1-98)
10. Care Coordination Supervisor. An individual who has at least a BA or BS degree and is a licensed social worker, psychologist or licensed professional nurse (registered nurse/RN) with at least two (2) years' experience in service delivery to the service population. (7-1-98)
11. Chore Services. Providing assistance to persons having difficulty with one or more of the following instrumental activities of daily living: heavy housework, yard work or sidewalk maintenance. (7-1-98)
12. Client. Person who has met program eligibility requirements for services addressed in this chapter. (7-1-98)
13. Cognitive Impairment. A disability or condition due to mental impairment. (7-1-98)
14. Congregate Meals. Meals that meet the requirements of the OAA, as amended, served in a group setting. (7-1-98)
15. Department. Department of Health and Welfare. (7-1-98)
16. Direct Costs. Costs incurred from the provision of direct services. These costs include, but are not limited to, salaries, fringe benefits, travel, equipment, and supplies directly involved in the provision of services. Salaries of program coordinators and first line supervisors are considered direct costs. (7-1-98)
17. Eligible Clients. Residents of the state of Idaho who are sixty (60) years or older and their spouses. (7-1-98)
18. Fee for Services. An established payment required from individuals receiving services under the Act. The fee varies according to client's current annual household income. (7-1-98)
19. Fiscal Effectiveness. A financial record of the cost of all formal services provided to insure that maintenance of an individual at home is more cost effective than placement of that individual in an institutional long-term care setting. (7-1-98)

20. Formal Services. Services provided to clients by a formally organized entity. (7-1-98)
21. Functional Impairment. A condition that limits an individual's ability to perform ADLs and IADLs. (7-1-98)
22. Home-Delivered Meals. Meals delivered to eligible clients in private homes. These meals shall meet the requirements of the OAA. (7-1-98)
23. Homemaker. A person who has successfully completed a basic prescribed training, who, with additional supervision, provides homemaker services. (7-1-98)
24. Homemaker Service. Assistance with housekeeping, meal planning and preparation, essential shopping and personal errands, banking and bill paying, medication management, and, with restrictions, bathing and washing hair. (7-1-98)
25. Household. For sliding fee purposes, a "household" includes a client and any other person(s) permanently resident in the same dwelling who share accommodations and expenses with the client. (7-1-98)
26. Idaho Commission on Aging (ICOA). Commission designated by the Governor to plan, set priorities, coordinate, develop policy, and evaluate state activities relative to the objectives of the OAA. (7-1-98)
27. Informal Supports. Those supports provided by church, family, friends, and neighbors, usually at no cost to the client. (7-1-98)
28. Instrumental Activities of Daily Living (IADL). Meal preparation, money management, transportation, shopping, using the telephone, medication management, heavy housework, light housework. (7-1-98)
29. Legal Representative. A person who carries a Durable Power of Attorney or who is appointed Guardian or Conservator with legal authority to speak for a client. (7-1-98)
30. National Aging Program Information System. (NAPIS) Standardized Nationwide reporting system that tracks:
  - a. Service levels by individual service, identifies client characteristics, State and area agency staffing profiles, and identifies major program accomplishments; and (7-1-98)
  - b. Complaints received against long term care facilities and family members or complaints related to rights, benefits and entitlements. (7-1-98)
31. Non-Institutional. Living arrangements which do not provide medical oversight or organized supervision of residents' activities of daily living. Non-institutional residences include congregate housing units, board and room facilities, private residential houses, apartments, condominiums, duplexes and multiplexes, hotel/motel rooms, and group homes in which residents are typically unrelated to individuals. Non-institutional does not include skilled nursing homes, residential care facilities, homes providing adult foster care, hospitals, or residential schools/hospitals for the severely developmentally disabled or the chronically mentally ill. (7-1-98)
32. Older Americans Act (OAA). Federal law which authorizes funding to states to provide supportive and nutrition services for the elderly. (7-1-98)
33. Ombudsman. An individual or program providing a mechanism to receive, investigate, and resolve complaints made by, or on behalf of, residents of long-term care facilities, or persons aged sixty (60) and older living in the community. (7-1-98)
34. Performance-Based Agreements. A written agreement between the ICOA and area agencies which establishes output and outcome measures. (7-1-98)

35. Personal Care Services (PCS). Services which include personal and medically-oriented procedures required to meet the physical needs of a patient convalescing at home or to provide for a long-term care client's on-going maintenance/support, in accordance with Section 39-5602 (f), Idaho Code. (7-1-98)
36. Program. The Idaho Senior Services Program. (7-1-98)
37. Planning and Service Area (PSA). Substate geographical area designated by the ICOA for which an area agency is responsible. (7-1-98)
38. Provider. An AAA that provides services directly or another entity under contract with the AAA to provide a specific service(s). (7-1-98)
39. Respite. Short-term, intermittent relief provided to full-time caregivers (individuals or families) of a functionally-impaired relative. (7-1-98)
40. Shopping Assistance. Accompaniment and provision of assistance to an elderly individual for the purpose of purchasing food, medicine and other necessities for an elderly individual who is disabled or homebound. (7-1-98)
41. Sliding Fee Scale. A fee scale ranging from zero percent (0%) to one hundred percent (100%) of the cost of services. Cost of services shall be based on the contractor's or provider's actual unit costs. A client's percentage (payment) shall be determined by ranking the client's ~~household's~~ annual household income against the federally determined poverty guidelines for that year. ~~(7-1-98)~~(7-1-98)T
42. Supportive Service Plan (SSP). An individual support plan outlining an array of services or the components of an individual service required to maintain a client at home. For Adult Protection purposes the SSP shall address the available remedial, social, legal, medical, educational, mental health, or other services available to reduce risks and meet the care needs of a vulnerable adult. (7-1-98)
43. Supportive Services Technician. AAA employee who is a paraprofessional working under the supervision of a licensed social worker or care coordinator assisting in the performance of specified tasks associated with investigation of Adult Protection reports or development and initiation of a SSP. The employee shall have a degree in a related field or a high school diploma and at least two (2) years' experience working with elderly or at-risk populations. (7-1-98)
44. Transportation Services. Services designed to transport eligible clients to and from community facilities/resources for the purposes of applying for and receiving services, reducing isolation, or otherwise promoting independence. (7-1-98)
45. Uniform Assessment Instrument (UAI). A comprehensive assessment instrument utilizing uniform criteria. The ICOA mandates use of a UAI in determining an applicant's need for care and services. (7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**026. FEES AND CLIENT CONTRIBUTIONS.**

01. Poverty Guidelines. Clients whose income exceeds one hundred percent (100%) of poverty (as established by the United States Department of Health and Human Services) shall be required to pay a fee for service according to a variable fee schedules established by the ICOA. (7-1-98)
02. Income Declaration. Income shall be determined by an annual client self-declaration. When a client's income increases or decreases, the client shall notify the provider for a redetermination of income. (7-1-98)
03. Determining Income. For this purpose, income means gross household income from all sources,

less the cost of medical insurance and expenditures for non-covered medical services and prescription drugs. Payments the client receives from owned property currently being leased shall be counted as income after expenses are deducted if paid by the client, i.e., insurance, taxes, water, sewer, and trash collection, if paid by the client, are deducted. In determining income for respite and adult day care clients, income means the gross income of the client as specified above but shall not include the income of any other person(s) who reside in the household.

~~(7-1-98)~~(7-1-98)T

04. Fee Based on Actual Cost. Assessed fee shall be a percentage of the provider's actual unit cost.

(7-1-98)

05. Fee Waived. The fee may be waived for clients who refuse to pay a fee if there is documented evidence that not providing the service would increase risk of or harm to the client.

~~(7-1-98)~~(7-1-98)T

06. Fee ~~Not~~ Required. Fees are ~~not~~ required from clients receiving ~~nutrition or transportation services~~ Care Coordination, Chore, Homemaker, and Respite Services.

~~(7-1-98)~~(7-1-98)T

07. Client Contributions. Clients whose annual income falls below poverty shall be given the opportunity to make voluntary contributions.

(7-1-98)

08. Use of Fees and Contributions. Providers shall maintain accounting records of all fees and contributions collected and of all monies expended from these sources. All monies derived from fees, contributions, or both, shall be used to offset the costs of providing the service(s) for which they were collected.

(7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**029. DENIAL OF SERVICE.**

An applicant shall be notified in writing of a denial of service and the right to appeal in accordance with IDAPA 15.01.20, Section ~~028003~~, "Rules Governing Area Agency on Aging Operations". The request for services may be denied for any of the following reason(s):

~~(7-1-98)~~(7-1-98)T

01. Applicant Not In Need of Service. The applicant's functional or cognitive deficits are not severe enough to require services.

(7-1-98)

02. Family or Other Supports Adequate. Family, or other informal supports are adequate to meet applicants current needs.

(7-1-98)

03. Other Care Required. The client's needs are of such magnitude that more intensive supports, such as Medicaid PCS, attendant care, or referral for residential or nursing home placement are indicated. In such instances, alternatives shall be explored with the client and the client's legal representative and family, if available. Referrals shall be made by the provider, as appropriate.

(7-1-98)

04. Barriers to Service Delivery Exist. The applicant's home is hazardous to the health or safety of service workers.

(7-1-98)

05. Geographical Inaccessibility. The applicant's home is more than twenty (20) miles from the nearest point of service provision of homemaker, chore, or respite and the provider can document efforts to locate a worker or volunteer to fill the service need have been unsuccessful.

(7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**040. TERMINATION OF SERVICE.**

01. Documentation. Documentation of notice of termination shall be placed in the client's case record, signed, and dated by the provider. (7-1-98)

02. Appeals Process. The client shall be informed of the appeals process, in accordance with IDAPA 15.01.20, Subsection 027.003, "Rules Governing Area Agency on Aging Operations". (7-1-98)(7-1-98)T

03. AAA Services. AAA authorized services may be discontinued by the provider for any of the reasons listed below, or at the discretion of a program director or AAA director: (7-1-98)

- a. Services proved ineffective, insufficient, or inappropriate to meet client needs. (7-1-98)
- b. Other resources were utilized. (7-1-98)
- c. Client withdrew from the program or moved. (7-1-98)
- d. Family or other support to client increased. (7-1-98)
- e. Client placed in a long-term care facility. (7-1-98)
- f. Client died (no notification of termination required). (7-1-98)
- g. Client's functioning improved. (7-1-98)
- h. Client refused service. (7-1-98)
- i. Client's home is hazardous to the service provider (requires prior notification of the AAA Director with final approval being at the discretion of the AAA Director). (7-1-98)
- j. Client's home is not reasonably accessible. (7-1-98)
- k. Client's behavior is a threat to the safety of the provider (requires prior notification of the AAA Director with final approval being at the discretion of the AAA Director). (7-1-98)
- l. Client verbally abuses or sexually harasses service provider. (7-1-98)
- m. Client refuses to pay fee determined for service. (7-1-98)
- n. Service provider is not available in locale. (7-1-98)
- o. Services are no longer cost effective. (7-1-98)

04. Notification of Termination and Right to Appeal. Client shall be informed in writing of the reasons for provider initiated service termination and the right to appeal at least two (2) weeks prior to termination. Exceptions to the two (2) week advance notification of termination will be justified to the AAA Director with final approval being at the discretion of the AAA Director. Appeal actions are the responsibility of the AAA. The client shall be referred to other services as appropriate. (7-1-98)

**041. HOMEMAKER.**

01. Policy. Homemaker service is designed to provide assistance required to compensate for functional or cognitive limitations. Homemaker services provide assistance to eligible individuals in their own homes, or, based on an adult protection referral, in a caregivers home; to restore, enhance, or maintain their capabilities for self-care and independent living. Available family shall be involved in developing a supportive services plan for the client to ensure the formal services provided shall enhance any available informal supports provided. A client or legal representative shall have the right to accept or refuse services at any time. Homemaker providers shall reserve funds to support the expenditure of up to a maximum of ten percent (10%) of their annual Act funding to support emergency service requests and response to adult protection referrals. (7-1-98)

02. Service Eligibility. Individuals are eligible for homemaker services if they meet any of the following requirements: (7-1-98)

a. They have been assessed to have ADL deficits, IADL deficits, or both, which prohibit their ability to maintain a clean and safe home environment. (7-1-98)

b. Clients over age sixty (60), who have been assessed to need homemaker service, may be living in the household of a family member (of any age) who is the primary caregiver. (7-1-98)

c. They are Adult Protection referrals for whom homemaker service is being requested as a component of a SSP to remediate or resolve an adult protection complaint. (7-1-98)

d. Vulnerable adults under age sixty (60), who have been assessed to need homemaker service are eligible to receive the service a maximum of three (3) consecutive months within a program year. (7-1-98)

e. They are home health service clients who may be eligible for emergency homemaker service. (7-1-98)

03. PCS. Clients eligible to receive PCS through the Department are not eligible for homemaker services unless the services are determined to be needed on an interim, emergency basis until PCS is initiated. Interim emergency services shall not exceed two (2) months' duration. (7-1-98)

04. Purpose of Service. (7-1-98)

a. Maintain independence and dignity. To secure and maintain in a home environment the independence and dignity of clients who are capable of self-care with appropriate supportive services. (7-1-98)

b. Prevent institutionalization. To avoid or delay placement into long-term care institutions. (7-1-98)

c. Remedy harmful living arrangements. To promote the health and safety of the client. (7-1-98)

d. Crisis intervention. To assist the client through a crisis situation, if the homemaker service(s) required meet the client's needs and can be provided within the guidelines set forth in these rules. (7-1-98)

05. Exclusions. (7-1-98)

a. Meal preparation. Homemakers shall not prepare meals for a client if home-delivered meals are available. (7-1-98)

b. Transportation. Homemakers shall not transport a client unless the provider carries liability insurance. (7-1-98)

c. Medical judgments. Homemakers shall not make medical judgments nor any determinations regarding the application of advance directives. (7-1-98)

d. Bathing and ~~w~~Washing ~~h~~Hair. Contractors shall obtain adequate and appropriate insurance coverage prior to assigning homemakers to assist clients with bathing and (or) washing hair. ~~(7-1-98)~~(7-1-98)T

06. Service Priority. Once approved, clients shall be prioritized to receive homemaker services based on their needs, as determined through the completion of the UAI as follows: (7-1-98)

a. Highest priority shall be given to clients with the greatest degree of functional or cognitive impairment; then (7-1-98)

b. To clients lacking informal supports; then (7-1-98)

c. To clients whose homes are in poor condition with respect to those circumstances which the homemaker service can remedy. (7-1-98)

07. Homemaker Training and Supervision. All homemakers shall receive an employee orientation from the provider before performing homemaker services. Orientation shall include the purpose and philosophy of homemaker services, review of homemaking skills, program regulations, policies and procedures, proper conduct in relating to clients, and handling of confidential and emergency situations involving a client. (7-1-98)

a. CPR. Homemakers shall complete CPR training within three (3) months of hire and shall maintain certification thereafter. (7-1-98)

b. In-service training. Providers shall annually provide homemakers with a minimum of ten (10) hours training, including CPR, for the purpose of upgrading their skills and knowledge. (7-1-98)

c. Providers shall assure that homemakers who assist clients with bathing or hair washing receive specific training in performing these services prior to being assigned to a client. (7-1-98)

d. Homemaker supervision. All providers shall maintain written job descriptions for homemakers and shall have written personnel policies. All homemakers shall receive an annual performance evaluation. Homemaker supervisors shall be available to homemakers during work hours to discuss changes in client's circumstances, to resolve problems with schedules, or to respond to emergencies. (7-1-98)

08. Medical Emergencies. In case of medical emergency, the homemaker shall immediately call 911 or the available local emergency medical service and, if appropriate, shall initiate CPR. (7-1-98)

09. Conduct of Homemakers. Contractors shall insure, through personnel policies, orientation procedures, signed homemaker agreements, and supervision, that homemaker conduct is governed by the following restrictions. A copy of these restrictions, signed by the homemaker, shall be placed in each homemaker's personnel file. (7-1-98)

a. Accepting money or loans. A homemaker shall not accept money or a loan, in any form, from a client. (7-1-98)

b. Sale of goods. A homemaker shall not solicit the purchase of goods, materials, or services. (7-1-98)

c. Addresses and telephone numbers. A homemaker shall not provide a personal telephone number or home address to clients. (7-1-98)

d. Private work. A homemaker shall not work privately for a client of homemaker services. (7-1-98)

e. Client's residence. A homemaker shall not enter a client's residence in the absence of the client unless the client has given permission to enter to accomplish scheduled work and the permission is documented in the client file. (7-1-98)

f. Proselytizing. A homemaker shall not engage in religious proselytizing during the course of employment. (7-1-98)

g. Medication administration. A homemaker shall not administer medications. The homemaker may remind a client to take medications, assist with removing the cap from a multi-dose or bubble pack container, and may observe the client taking medications. (7-1-98)

h. Confidentiality. A homemaker shall regard all client communications and information about clients' circumstances as confidential. (7-1-98)

i. Smoking. A homemaker shall not smoke in the home of a client. (7-1-98)

10. Intake and Assessment. (7-1-98)
- a. Normal intake. Client contact shall be initiated within five (5) days of receipt of the referral, and an assessment shall be conducted within two (2) weeks of referral. (7-1-98)
- b. Emergency intake. Referrals indicating a crisis or potential crisis such as a marked decline in health or functional status, hospital discharge, or adult protection referral require a home visit be conducted to assess service need within one (1) working day of receipt of referral. If appropriate and available, a homemaker shall be assigned and service shall be initiated immediately. Such emergency homemaker service shall not exceed two (2) weeks duration. Referrals assessed to need emergency service shall take precedence over applicants carried on a waiting list. (7-1-98)
- c. Client assessment. To determine the level of need and the type of service needed, the provider shall conduct an in-home assessment using the ICOA UAI. Service alternatives shall be discussed and referrals initiated as appropriate. (7-1-98)
- d. Assessment coordination. A client need not be re-assessed if an assessment completed within the past ninety (90) days by another human services agency provides the same information as the ICOA's UAI and the client signs a Release of Information form. A client assessment shall be completed if no current assessment from another agency is available. In either case, a home visit shall be included in the process of developing the client's individual SSP. (7-1-98)
11. Individual Supportive Service Plan (SSP). A supportive service plan shall be signed by the client or legal representative prior to initiation of service. (7-1-98)
- a. An approved plan shall reflect needed services to be provided by available family or others. (7-1-98)
- b. Revision of the SSP. After services have been in place for one (1) month, the homemaker shall inform the supervisor of any modifications needed in the SSP, such as changes in hours of service or tasks to be performed. (7-1-98)
- c. Reassessments of SSP. The SSP shall be updated at least annually. Any revisions to an SSP shall be initiated by the client prior to being put into effect. An SSP may be updated more often than annually if changes in a client's circumstances (i.e., functional or cognitive ability, living conditions, availability of supports) indicate a necessity for re-assessment. (7-1-98)

**042. CHORE.**

01. Policy. Chore service is designed to be provided to individuals who reside in their own homes or who occupy individual rental units. Chore services for those individuals who rent housing shall not provide repairs or maintenance that are contractually the responsibility of the property owner. (7-1-98)
02. Service Eligibility. Clients qualify to receive chore service if: (7-1-98)
- a. They have been assessed to have ADL or IADL deficits which inhibit their ability to maintain their homes or yards; (7-1-98)
- b. There are no available informal supports; (7-1-98)
- c. ~~Client Safety.~~ Client Safety. Chore service is needed to improve the client's safety at home or to enhance the client's use of existing facilities in the home. These objectives shall be accomplished through one-time or intermittent service to the client. ~~(7-1-98)~~(7-1-98)T
03. Service Priority. Service provision shall be prioritized based on client's degree of functional impairment. (7-1-98)



- 04. Program Intake and Eligibility Determination. (7-1-98)
  - a. A home visit shall be made within five (5) work days of the referral. (7-1-98)
  - b. Client assessment shall be conducted utilizing the UAI. (7-1-98)
  - c. If chore services are to be provided, the income declaration, service determination and work plan shall be completed prior to any work being done. The work plan shall be signed by both the client and the service provider. The work plan shall include a description of the work to be accomplished, the start and completion dates for such work, and a summary of any cost to the client (for labor or materials) the work shall incur. (7-1-98)
  - d. If the client is not eligible for services, appropriate referrals shall be made. (7-1-98)

**043. ADULT DAY CARE.**

01. Policy. Adult Day Care is designed to meet the needs of eligible participants whose functional or cognitive abilities have deteriorated. It is intended to provide relief for care providing family members. It is a comprehensive program which provides a variety of social and other related support services in a protective setting during any part of a day, but for a duration of less than twenty-four (24) hours. (7-1-98)

02. Eligibility. Individuals eligible for adult day care include: (7-1-98)
- a. Those who have physical or cognitive disabilities affecting ADL or IADL functioning; (7-1-98)
  - b. Those capable of being transported; (7-1-98)
  - c. Those capable of benefiting from socialization, structured and supervised group-oriented programs; (7-1-98)
  - d. Those capable of self-care with supervision or cueing. (7-1-98)

and

03. Enrollment Agreement. A signed enrollment agreement shall be completed to include: (7-1-98)
- a. Scheduled days of attendance; (7-1-98)
  - b. Services and goals of the center; (7-1-98)
  - c. Amount of fees and when due; (7-1-98)
  - d. Transportation agreement, if appropriate; (7-1-98)
  - e. Emergency procedures; (7-1-98)
  - f. Release from liability (for field trips, etc.); (7-1-98)
  - g. Conditions for service termination; (7-1-98)
  - h. A copy of the center's policy; and (7-1-98)
  - i. A SSP. (7-1-98)
04. Staffing. Staff shall be adequate in number and skills to provide essential services. (7-1-98)
- a. There shall be at least two (2) responsible persons at the center at all times when clients are in attendance. One shall be a paid staff member. (7-1-98)

- b. ~~The staff to client ratio shall be, at minimum, one to six (1:6).~~ (7-1-98)
- eb. Staff to client ratio shall be increased appropriately if the number of clients in day care increases or if the degree of severity of clients' functional or cognitive impairment increases. (7-1-98)
- ec. Staff persons counted in the staff to client ratio shall be those who spend the major part of their work time in direct service to clients. (7-1-98)
- ed. If the administrator is responsible for more than one (1) site or has duties not directly related to adult day care, a program manager shall be designated for each site. (7-1-98)
- ef. Volunteers shall be included in the staff ratio only when they conform to the same standards and requirements as paid staff. (7-1-98)
05. Services. Adult Day Care Programs shall, at a minimum, provide the following services: (7-1-98)
- a. Assistance with transferring, walking, eating, toileting; (7-1-98)
  - b. Recreation; (7-1-98)
  - c. Nutrition and therapeutic diets; and (7-1-98)
  - d. Exercise. (7-1-98)
06. National Standards. Adult Day Care Programs shall operate under guidelines established by the ICOA in accordance with national standards developed by the National Council on Aging's National Institute on Adult Day Care. (7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**056. CARE COORDINATION.**

01. Policy. Care coordination is a consumer-driven, social model case management service that empowers individuals and their families to make choices concerning in-home, community-based or institutional long-term care services. (7-1-98)
02. Qualifications. Any person hired to fill the position of care coordination supervisor or care coordinator on or after July 1, 1998, shall have the qualifications identified in Subsections 010.08 and 010.10 of this chapter. (7-1-98)
03. Service Priority. Service priority is based on the following criteria: (7-1-98)
- a. Require minimal assistance with one or more ADLs or IADLs; and (7-1-98)
  - b. Require services from multiple health/social services providers, and (7-1-98)
  - c. Are unable to obtain the required health/social services for themselves, or, (7-1-98)
  - d. Lack available family or friends who ~~do not have family or friends who,~~ can provide the needed assistance. (7-1-98)(7-1-98)T
04. Screening and Referral. (7-1-98)
- a. The purpose of screening is to determine whether an older person needs service referral, assistance

and client advocacy, or is a potential care coordination client who should receive a home visit and a comprehensive assessment. (7-1-98)

b. Screening shall be provided over the telephone. Screening may also be provided in the field, if appropriate. (7-1-98)

c. Screening shall usually be accomplished by the I&A component, Adult Protection, provider, or by a community agency. However, care coordination may receive a direct referral of a potential client who has not been screened. In such cases, care coordination shall conduct screening or refer the potential client to the I&A component for screening. ~~(7-1-98)~~(7-1-98)T

d. All Care Coordination Programs shall utilize the pre-screen and referral component of the UAI to screen potential clients. (7-1-98)

e. Pre-referral screening shall be done to determine if a potential client meets the criteria for receipt of Care Coordination Services. If the potential client meets the criteria and agrees to the referral, the client shall be referred for a comprehensive assessment utilizing the UAI. (7-1-98)

f. Referrals who do not meet the criteria for Care Coordination Services shall be referred for other appropriate services. (7-1-98)

g. If notification was requested, the referral source shall be notified of case disposition following the screening. (7-1-98)

05. Referral for Care Coordination. Referrals shall be accepted from any source and may include eligible clients who are seeking or already receiving other services. (7-1-98)

06. Working Agreements. (7-1-98)

a. The Care Coordination Program shall enter into working agreements with primary community resources utilized by older persons. These resources may include AAA service providers, mental health centers, hospitals, home health agencies, legal services providers, and others. (7-1-98)

b. Working agreements shall address at least the following: (7-1-98)

i. How long each party shall take to respond to a request for service; (7-1-98)

ii. Release of information procedures; (7-1-98)

iii. Referral and follow-up procedures; (7-1-98)

iv. How each party shall notify the other of program changes and non-availability of service; and (7-1-98)

v. Procedures for working out problems between the two (2) parties. (7-1-98)

07. Core Services. Care coordination provides responsible utilization of available informal (unpaid) supports before arranging for formal (paid) services. The care coordinator and client shall work together in determining the frequency and duration of needed services. Services shall be arranged subsequent to approval by the client or legal representative. Services provided shall be recorded and monitored to insure cost effectiveness and compliance with the SSP. (7-1-98)

a. Client assessment shall be conducted during a home visit and shall utilize the UAI. (7-1-98)

b. A client need not be re-assessed if an assessment completed within the past ninety (90) days by another human service agency provides the same information as the ICOA's UAI and the client signs a Release of Information form. (7-1-98)

- c. SSP. Based on the information obtained during the client assessment and input obtained from family or professionals familiar with the client, the care coordinator shall develop a written SSP which shall include at least the following: (7-1-98)
- i. Problems identified during the assessment; (7-1-98)
  - ii. Exploration of opportunities for family and other informal support involvement to be included in development of the SSP; (7-1-98)
  - iii. Overall goals to be achieved; (7-1-98)
  - iv. Reference to all services and contributions provided by informal supports including the actions, if any, taken by the care coordinator to develop the informal support services; (7-1-98)
  - v. Documentation of all those involved in the service planning, including the client's involvement; (7-1-98)
  - vi. Schedules for care coordination monitoring and reassessment; (7-1-98)
  - vii. Documentation of unmet need and service gaps; and (7-1-98)
  - viii. References to any formal services arranged, including fees, specific providers, schedules of service initiation, and frequency or anticipated dates of delivery. (7-1-98)
- d. The SSP shall be reevaluated and updated by the care coordinator at least annually or when significant changes in the client's status occur. (7-1-98)
- e. A copy of the current SSP shall be provided to the client or legal representative. (7-1-98)
- f. Case files shall be maintained for three (3) years following service termination. (7-1-98)
08. Other Supportive Services. (7-1-98)
- a. Necessary services. Care coordinators shall assist clients to obtain available benefits, ~~entitlements~~, services, medically related devices, assistive technology, necessary home modifications, or other services required to fulfill unmet needs. (7-1-98)(7-1-98)T
  - b. Social-emotional support. Care coordinators shall link clients and their families with available services which facilitate life adjustments and bolster informal supports. (7-1-98)
  - c. Unmet needs. To assist the AAA in future planning, care coordinators shall identify and document unmet client needs. (7-1-98)
  - d. Other informal resources. In all cases, available informal supports shall be explored prior to utilization of formal services. (7-1-98)
09. Structure and Role. Care coordination is a centralized evaluator and arranger of services and provides those activities previously outlined under "Service Functions". AAAs shall be the direct provider for care coordination services. The AAA is responsible for the implementation of the care coordination program. (7-1-98)
- a. Care coordinators shall ~~actively advocate for services required by clients and shall~~ coordinate service delivery between multiple agencies, individuals, and others. (7-1-98)(7-1-98)T
  - b. All providers of Care Coordination Services shall carry insurance in the types and amounts which meet acceptable business and professional standards. (7-1-98)

c. Providers shall conduct an orientation program for all new employees which covers, at least, local resources available, care coordination service delivery, confidentiality of information, and client rights. (7-1-98)

d. In addition to the development and maintenance of the SSP, program and client records shall be maintained to provide an information system which assures accountability to clients, the Care Coordination Program, and funding agencies, and which supplies data for AAA planning efforts. The information system established shall comply with the following ICOA requirements: (7-1-98)

- i. NAPIS Registration Form; (7-1-98)
- ii. Completed UAI; (7-1-98)
- iii. Pertinent correspondence relating specifically to the client; (7-1-98)
- iv. A narrative record of client and community contacts, including problems encountered and SSP modifications developed in response; (7-1-98)
- v. Completed SSP, signed by the client; (7-1-98)
- vi. Written consent and acceptance of Care Coordination Services and release of information forms; (7-1-98)
- vii. Any other documentation necessary for systematic care coordination and SSP continuity. (7-1-98)

10. Standards of Performance. AAAs shall assure care coordination meets the requirements for service neutrality. An agency providing care coordination shall not be a direct provider of other in-home services without proper written justification and approval by the Director of the ICOA. (7-1-98)

11. Evaluation. Evaluation is required to assure quality control. The AAA is responsible for monitoring care coordination activities for quality control and assurance. The AAA shall review client records to determine: (7-1-98)

- a. Services are being provided as outlined in the SSP; (7-1-98)
- b. Services are meeting the goals established in the SSP; (7-1-98)
- c. The client is satisfied with the service(s) being provided; (7-1-98)
- d. Changes in service have been authorized; (7-1-98)
- e. The SSP continues to be cost-effective; (7-1-98)
- f. Providers are noting observations and relating information about informal caregivers, additional actions required by the care coordinator, re-evaluations, amendments to the SSP, and client contacts. (7-1-98)

**IDAPA 15 - OFFICE OF THE GOVERNOR**  
**15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION SERVICES**  
**IDAHO COMMISSION ON AGING**

**DOCKET NO. 15-0102-9801**

**NOTICE OF TEMPORARY RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1998.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section 67-5003, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for temporary rule-making:

These rules correct an incomplete sentence.

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

To protect the public health, safety, and welfare.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Omar Valverde, 334-2220.

DATED this 22nd day of December, 1997.

Arlene D. Davidson, Director  
Idaho Commission on Aging  
700 W. Jefferson, Room 108  
P.O. Box 83720, Boise, Idaho 83720-0007  
Telephone: (208) 334-3833, Fax (208) 334-3033

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**TEXT OF DOCKET NO. 15-0102-9801**

**031. INVESTIGATIVE REQUIREMENTS.**

01. Vulnerability Determination. Upon investigating an AP report, each area agency shall determine whether an alleged victim is vulnerable as defined in Section 39-5302, Idaho Code. If the alleged victim is not vulnerable as defined in Section 39-5302, Idaho Code, AP may refer the complaint to the Ombudsman, Law Enforcement or other appropriate entity for investigation and resolution. (7-1-98)

02. Assessment of Alleged Victim. An alleged victim's vulnerability and associated risk factors shall be determined through the administration of the UAI and other standardized supplemental forms. Initial interviews and assessments of an alleged victim shall be conducted by an AP worker. (7-1-98)

03. Investigative Findings. AP shall make one (1) of two (2) investigative findings upon completion of an AP investigation: (7-1-98)

a. Substantiated. AP determines that a report is valid based on sufficient evidence. (7-1-98)

b. Unsubstantiated. AP determines that a complaint is invalid due to insufficient supporting evidence.

This finding requires AP to close the case. (7-1-98)

i. If an allegation is unsubstantiated, but the vulnerable adult has unmet service needs, AP shall initiate appropriate referrals with consent of the vulnerable adult or his legal representative. (7-1-98)

ii. A case shall be closed if AP determines that an allegation has been made in bad faith or for a malicious purpose. (7-1-98)

iii. A case shall be closed if AP determines that an alleged victim is not a vulnerable adult. (7-1-98)

04. Caretaker Neglect. In investigating a report of caretaker neglect, AP shall take into account any deterioration of the mental or physical health of the caregiver resulting from the pressures associated with care giving responsibilities that may have contributed to the neglect of the vulnerable adult. In such cases, AP shall make every effort to assist the primary caregiver in accessing program services necessary to reduce the risk to the vulnerable adult. In AP cases in which family members are experiencing difficulties in providing twenty-four (24) hour care for a functionally impaired relative, AP shall make appropriate referrals to available community services to provide needed assistance. (7-1-98)

05. Referral to Law Enforcement. A substantiated report of abuse, neglect or exploitation is presumed to have caused a serious imposition of rights or injury to the alleged victim and shall be immediately referred to law enforcement pursuant to Section 39-5310, Idaho Code. (7-1-98)

06. Adult Protection and Ombudsman Coordination. Area agencies shall ensure that AP staff and the substate ombudsman maintain a written agreement establishing cooperative protocols in the investigation of complaints. (7-1-98)

07. Confidentiality. All records relating to a vulnerable adult and held by an area agency are confidential and shall only be divulged as permitted pursuant to Sections 39-5307, 39-5304 (5), Idaho Code, and IDAPA 15.01.01, Section ~~018028~~, "Rules Governing Idaho Senior Services Program". ~~(7-1-98)~~(7-1-98)T

### **032. SUPPORTIVE SERVICES AND CASE CLOSURE.**

01. Supportive Services Plan. If determined necessary to reduce risk to a vulnerable adult, in substantiated cases, AP shall assist in the development and initiation of a ~~the~~ SSP with the consent of the vulnerable adult or his legal representative. ~~(7-1-98)~~(7-1-98)T

02. Documentation of Client Consent. A vulnerable adult's consent, refusal to grant consent, or withdrawal of consent to a SSP shall be documented in the client case record. (7-1-98)

03. Case Review. The implemented SSP shall be reviewed annually or more frequently based on the circumstances of each individual case. ~~(7-1-98)~~(7-1-98)T

04. Case Closure. AP shall close a case under the following circumstances: (7-1-98)

a. AP shall close a substantiated case upon a determination that an initiated SSP or law enforcement involvement has successfully reduced the risk to the vulnerable adult. (7-1-98)

b. AP may close a case if another program or agency has agreed to assume responsibility to monitoring and reviewing implementation of an SSP. (7-1-98)

05. Suspense File. Closed cases shall be maintained in a suspense file until formal action is completed by law enforcement and/or the courts in the following instances: (7-1-98)

a. Cases referred by AP to law enforcement for criminal investigation and prosecution as determined necessary by the law enforcement agency. (7-1-98)

b. Cases referred by AP for guardianship/conservatorship proceedings. (7-1-98)

**IDAPA 15 - OFFICE OF THE GOVERNOR**  
**15.01.03 - RULES GOVERNING OMBUDSMAN FOR THE ELDERLY**  
**IDAHO COMMISSION ON AGING**

**DOCKET NO. 15-0103-9801**

**NOTICE OF TEMPORARY RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1998.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section 67-5003, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for temporary rule-making:

These rules correct clerical and transcription errors. Per request of Senator Grant Ipsen, they also delete a rule requiring the Ombudsman "to seek out residents who consent to communicate privately".

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

To protect the public health, safety, and welfare.

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

Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Cathy Hart, 334-4693.

DATED this 22nd day of December, 1997.

Arlene D. Davidson  
Director  
Idaho Commission on Aging  
700 W. Jefferson, Room 108  
P.O. Box 83720  
Boise, Idaho 83720-0007  
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**TEXT OF DOCKET NO. 15-0103-9801**

**021. STAFFING.**

Pursuant to the OAA, Section 712, in order to meet minimum requirements established for the position of substate ombudsman, each AAA shall seek applicants having the following qualifications. (7-1-98)

01. Minimum Qualifications: (7-1-98)

a. Any person hired to fill the position of substate ombudsman on or after July 1, 1998, shall have: (7-1-98)

ba. A current Idaho social work license; (7-1-98)



- e**b**. Minimum of one (1) year's experience working with the elderly; (7-1-98)
  - e**c**. Ability to effectively communicate verbally and in writing; (7-1-98)
  - e**d**. Knowledge of long-term care issues and resources; (7-1-98)
  - e**f**. Demonstrated ability to interpret and apply relevant local, state and federal laws, rules, regulations, and guidelines; (7-1-98)
  - e**g**. Demonstrated ability to work independently; (7-1-98)
  - e**h**. Demonstrated skill in interviewing techniques; and (7-1-98)
  - e**i**. Demonstrated ability to collect data, conduct interviews and to form conclusions. (7-1-98)
02. Hiring. The Office shall be included in the process of interviewing and selecting applicants for the substate ombudsman position. The AAA shall make the final selection from the top three (3) applicants. (7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**032. HANDLING OF COMPLAINTS.**

The Ombudsman for the Elderly Program has jurisdiction to accept, identify, investigate, and resolve complaints made by, or on behalf of, persons aged sixty (60) or older, living in the community or in long-term care facilities. The Office and the substate ombudsmen shall ensure that persons aged sixty (60) or older have regular and timely access to services provided through the Office. The Ombudsman for the Elderly Program shall represent the interests of older persons before governmental agencies and shall seek to protect the health, safety, welfare and rights of older persons. (7-1-98)

01. Non-Jurisdictional Complaints. Substate ombudsmen may respond to complaints made by or on behalf of under age sixty (60) long-term care residents where such action will: (7-1-98)
- a. Benefit other residents; or (7-1-98)
  - b. Provide the only viable avenue of assistance available to the complainant. (7-1-98)
02. Conflict of Interest. Substate ombudsmen shall refer to the Office any complaint involving AAA staff or contractors. (7-1-98)
03. Complaints. Complaints concerning substate ombudsmen, or relative to a substate ombudsman's official duties, shall be directly referred to the ICOA. The ICOA, upon completing an investigation of such complaint(s), shall provide findings and recommendations to the AAA. (7-1-98)
04. Guardianship. The substate ombudsmen shall not serve as an ex-officio or appointed member of any ~~Community~~ Board of Community Guardian, nor file an affidavit to the court for guardianship. (7-1-98)
05. Court Visitor. The substate ombudsmen shall not act as court visitor in any guardianship/conservatorship proceeding concerning a past or current client. (7-1-98)
06. Legal Documents. Substate ombudsmen shall not, in their capacity as ombudsmen, act as a notary or a witness of signatures for legal documents. (7-1-98)

**033. ACCESS.**

The Office shall ensure that representatives of the Office have access to long-term care facilities and residents as well

as appropriate access to medical and social records needed to investigate complaints. (7-1-98)

01. Visitation. For visitation purposes, substate ombudsmen shall have access to long-term care facilities during regular business hours. Visiting substate ombudsmen shall: (7-1-98)

a. Notify the person in charge upon entering the facility; (7-1-98)

b. Be allowed to visit common areas of the facility and the rooms of residents if consent is given by the resident; and ~~(7-1-98)~~(7-1-98)t

~~e. Seek out residents who consent to communicate privately; and~~ (7-1-98)

~~d.~~ Communicate privately and without restriction with any resident who consents to the communication. (7-1-98)

02. Investigation. Substate ombudsmen shall have access to facilities for the purpose of conducting investigations. A substate ombudsman conducting an investigation shall: (7-1-98)

a. Notify the person in charge upon entering the facility; (7-1-98)

b. Be allowed to visit common areas of the facility and the rooms of residents if consent is given by the resident; (7-1-98)

c. Seek out residents who consent to communicate privately; (7-1-98)

d. Communicate privately and without restriction with any resident who consents to the communication; and (7-1-98)

e. Inspect a resident's records under conditions set forth in the OAA, Section 712. (7-1-98)

03. Privacy. Substate ombudsmen shall have statutory authority to visit facilities and residents in facilities unescorted by facility personnel. See Section 67-5009, Idaho Code. (7-1-98)

**IDAPA 15 - OFFICE OF THE GOVERNOR**  
**15.01.20 - RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS**  
**IDAHO COMMISSION ON AGING**

**DOCKET NO. 15-0120-9801**

**NOTICE OF TEMPORARY RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1998.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section 67-5003, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for temporary rule-making:

These rules make a correction in two subsections to maintain consistency in referring to the agreements between the Idaho Commission on Aging and area agencies on aging as "performance-based agreements". They also correct a clerical error and an incorrect references to another chapter of the rules.

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

To protect the public health, safety, and welfare.

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

Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Ken Wilkes, 334-2218.

DATED this 22nd day of December, 1997.

Arlene D. Davidson  
Director  
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700 W. Jefferson, Room 108  
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**TEXT OF DOCKET NO. 15-0120-9801**

**010. DEFINITIONS.**

Any item not specifically defined below shall have the same meaning as those listed in IDAPA 15.01.01, "Rules Governing Idaho Senior Services Program." (7-1-98)

01. Bidder/Offerer/Proposer. An eligible organizational entity which submits to the AAA a proposal to provide specific service(s). (7-1-98)

02. Bidders' Conference. A meeting conducted by the AAA to review the materials and information described in the RFP and to respond to questions from organizations that submit letters of intent and are interested in

completing proposals on specific services. (7-1-98)

03. Blind Negotiation. A process which takes place between the AAA and bidders after the local evaluation committee has "scored" proposals and has determined that there is no significant difference, ten percent (10%), between bids. In this case, the AAA has the authority to select the proposal most advantageous to the AAA. (7-1-98)

04. Blind Review. A proposal reviewing process which conceals the ~~identify~~ identity of the submitting organization. (7-1-98)(7-1-98)T

05. Contract. A legally binding, written agreement between two (2) or more parties which outlines the terms and provisions to which both parties agree. (7-1-98)

06. Evaluation Committee. A group of individuals selected to review proposing organizations' completed proposals. (7-1-98)

07. Letter of Intent. A written communication submitted by a potential bidder soliciting a request for proposal to provide a specific service. (7-1-98)

08. Performance-Based Agreement. A contract or grant which expresses priorities and directions through a statement of work and which serves as the basis for program review/assessment through the year. (7-1-98)

09. Request for Proposal (RFP). A document issued by the AAA, describing in detail the service to be contracted and how it is to be delivered. (7-1-98)

10. Sole Source. Documentation that only one (1) eligible, available provider is interested in providing a specific service. (7-1-98)

11. Statement of Work. The precise, definitive statement of what is expected of the provider. It shall answer such questions as what, how, when, where, and sometimes, why. (7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**056. REPORTING REQUIREMENTS.**

01. Reporting Forms. Each AAA shall submit to the ICOA such reports as are specified by the ICOA, in such format and on such schedule as is established by the ICOA, in fulfillment of all federal and state requirements. (7-1-98)

02. Verification of Service Provider Reports. The AAAs shall conduct ongoing verification of service provider reports in accordance with the terms of the ~~grant~~ performance-based agreement with the ICOA. (7-1-98)(7-1-98)T

03. Reporting Deficiencies. If reports are late, incorrect, or incomplete, the ICOA shall withhold funds from the AAA, in accordance with terms of the performance-based agreement between the ICOA and the AAA, until a correct report is received by the ICOA. (7-1-98)(7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**068. COLLECTION AND ACCOUNTABILITY OF PARTICIPANT CONTRIBUTIONS.**

01. Participant Contribution Confidentiality. All participants shall be given the opportunity to

contribute to programs operated with Administration on Aging funds. The method of collection shall respect the privacy of the participant, and provide for confidentiality of the fact and amount of the contribution. (7-1-98)

02. State Funds Cost Sharing. State-funded ~~Adult Day Care~~ Care Coordination, Chore, Homemaker, and Respite Services identified in IDAPA 15.01.01, Subsection ~~046026~~.06, "Rules Governing Idaho Senior Services Program", shall be provided on a cost-sharing basis, with a sliding fee scale. ~~(7-1-98)~~(7-1-98)T

03. Payment for Service. Persons under the age of sixty (60), who are not spouses of eligible participants, shall pay the full cost of meals, as published by the meal provider. No eligible person shall be denied services because of inability to pay. (7-1-98)

04. Used to Support Service. Service contributions shall be used to support the service from which they were generated. (7-1-98)

05. Security For Cash Collections. The service provider collecting funds shall provide for security of cash collected by having two (2) people involved in the collection and counting process. (7-1-98)

**IDAPA 15 - OFFICE OF THE GOVERNOR**  
**15.01.21 - RULES GOVERNING OLDER AMERICANS ACT SERVICES**  
**IDAHO COMMISSION ON AGING**

**DOCKET NO. 15-0121-9801**

**NOTICE OF TEMPORARY RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1998.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section 67-5003, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for temporary rule-making:

These rules add a definition for the "One hundred percent (100%) USDA cash-in-lieu of commodity program. They also make it optional for area agencies to participate in the USDA eighty/twenty (80/20) commodity program rather than a requirement. Section 031.02, Legal Assistance, was amended to change three percent (3%) to a "minimum percentage". Subsection 031.03.iii. was amended to eliminate the eight (8) hour requirement. Subsection 031.04.b. was eliminated.

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

To protect the public health, safety, and welfare.

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

Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Ed Wimmer, 334-2218.

DATED this 22nd day of December, 1997.

Arlene D. Davidson  
Director  
Idaho Commission on Aging  
700 W. Jefferson, Room 108  
P.O. Box 83720  
Boise, Idaho 83720-0007  
Telephone: (208) 334-3833, Fax (208) 334-3033

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**TEXT OF DOCKET NO. 15-0121-9801**

**010. DEFINITIONS.**

Any item not specifically defined below shall have the same meaning as those defined in Idaho Code or IDAPA 15.01.01, "Rules Governing Idaho Senior Services Programs". (7-1-98)

01. Access services. Transportation, Outreach, Information and Assistance and Case Management. (7-1-98)

02. I&A. Information and Assistance Services initiated by an older person or their representative that: (7-1-98)
- a. Provides current information about services available within the community, including information about assistive technology; (7-1-98)
  - b. Assesses the problem(s), determines the appropriate available service(s), and makes the referral; (7-1-98)
  - c. To the maximum extent practicable, by establishing adequate follow-up procedures, ensures that the client receives the needed service(s) and is made aware of other available services. (7-1-98)
03. Legal Assistance. Advice, counseling, or representation by an attorney or by a paralegal under the supervision of an attorney. (7-1-98)
04. Meal Site. A facility or location where eligible persons (and spouses) assemble for a meal, either site prepared or catered. (7-1-98)
05. Outreach Service. A service which actively seeks out older persons, identifies their service needs, and provides them with information and assistance to link them with appropriate services. (7-1-98)
06. Rural. Communities having a population of fewer than twenty thousand (20,000) persons. (7-1-98)
07. USDA Eighty/Twenty (80/20) Commodity Program. Federal program in which the participating AAA agrees to accept a minimum of twenty percent (20%) of its total entitlement in commodities with the balance of eighty percent (80%) being paid in cash at the current USDA reimbursement rate. (7-1-98)
08. USDA One Hundred Percent (100%) Cash-In-Lieu Commodity Program. Federal program in which the participating AAA receives one hundred percent (100%) cash reimbursement in lieu of commodities. (7-1-98)T

**011. NUTRITION SERVICES.**

01. Applicability of Federal Regulations. The ICOA incorporates, by reference, all federal and state statutes and requirements governing the administration, operation and management of the congregate and home-delivered meal programs. (7-1-98)
- a. Client's eligibility to receive home-delivered meals shall be based upon the degree to which ADLs/IADLs limit ability to independently prepare meals. (7-1-98)
  - b. The AAA shall ensure providers comply with all state and local fire, health, sanitation, safety, building, and zoning laws, ordinances, or codes; (7-1-98)
  - c. Have a valid permit to operate a food service establishment: (7-1-98)
    - i. Are in compliance with the Federal Occupational Safety and Health Administration (O.S.H.A.) requirements; (7-1-98)
    - ii. Pass the Food Safety and Sanitation course in compliance with IDAPA 16.02.19, Subsection 400.02, "Rules Governing Food Safety and Sanitation Standards for Food Establishments (UNICODE)"; and (7-1-98)
    - iii. Comply with the provisions of the Americans with Disabilities Act (PL 101-336). (7-1-98)
02. ~~USDA Eighty/Twenty (80/20)~~ Commodity Program Participation Requirements. All AAA nutrition service providers shall choose annually to participate in the USDA Eighty/Twenty (80/20) or One Hundred Percent (100%) Cash-In-Lieu Commodity programs. ~~(7-1-98)~~(7-1-98)T

**031. LEGAL ASSISTANCE.**

01. Administrative Requirements. The AAA shall assure adherence to all administrative requirements as set forth in rule, unless the ICOA grants a waiver. (7-1-98)

02. Title III-B Funds. Under an approved area plan, the AAA shall expend, ~~at minimum, three percent (3%)~~ a minimum percentage of Title III-B funds as set forth in the ICOA state plan in Title III-B funds for legal assistance. ~~(7-1-98)~~(7-1-98)T

03. Contracts. Through performance-based agreements with local providers, the AAA shall provide legal assistance to older residents of the PSA. (7-1-98)

i. AAA contracts with for-profit providers of legal assistance services shall conform with standards set forth in 45 CFR 1321.71. Prior to being executed, contracts shall be submitted to ICOA for approval. (7-1-98)

ii. Contracts for legal assistance services shall be executed for the purpose of providing direct legal assistance and representation to persons aged sixty (60) or older. The number of service units to be provided must be clearly stated in the contract. (7-1-98)

iii. Contracts for legal services shall include provision for ~~a minimum eight (8) hours of service per month~~ to clients of the AAA's Ombudsman for the Elderly Program and clients aged sixty (60) or older of the Adult Protection Program. ~~(7-1-98)~~(7-1-98)T

04. Idaho Legal Aid Services. AAA contracts with Idaho Legal Aid Services, Inc. shall provide the following assurances: (7-1-98)

a. Services provided under the contract to individuals sixty (60) years of age or older shall be in addition to legal assistance furnished with funds obtained from other sources. (7-1-98)

~~b. The contractor shall submit a quarterly report documenting legal assistance provided from other funding sources to individuals sixty (60) years of age or older. The report shall include: (7-1-98)~~

~~i. Description of legal problem; (7-1-98)~~

~~ii. Description of service provided; (7-1-98)~~

~~iii. Number of units of service provided; and (7-1-98)~~

~~iv. Number of unduplicated persons served. (7-1-98)~~

05. Maintenance of Legal Assistance Records. AAAs shall maintain records documenting legal assistance provided within each calendar quarter to individuals aged sixty (60) or older. (7-1-98)

06. Provision of Service. In accordance with OAA Section 307 (a) and 45 CFR 1321.71, Subparts (a) through (k), each AAA shall assure provision of legal assistance to older individuals residing within the PSA. (7-1-98)



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**  
**DOCKET NO. 16-0101-9801**  
**NOTICE OF NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Idaho Code Section 67-5220 and IDAPA 04.11.01.810 to .815, notice is hereby given that this agency intends to promulgate a rule and desires public participation in an informal, negotiated rulemaking process prior to the initiation of formal rulemaking procedures by the agency. The negotiated rulemaking action is authorized by Idaho Code Section 39-105. The formal rulemaking action is authorized by Idaho Code Sections 39-105 and 39-107.

**DESCRIPTIVE SUMMARY:** In November 1997, the Board of Health and Welfare adopted revisions to Idaho's Tier I operating permit rules as necessary to gain EPA approval of Idaho's Tier I operating permit program pursuant to Title V of the Clean Air Act. This rulemaking has been undertaken in response to a request to negotiate further revisions to the alterations sections of the Tier I operating permit rules (IDAPA 16.01.01 Sections 380 through 387). This rulemaking will affect persons responsible for facilities affected by the Tier I operating permit program.

Persons interested in participating in the negotiated rulemaking process are encouraged to attend the meeting scheduled for February 26, 1998 at 1:30 p.m. in Conference Room C of the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho. Interested persons may also participate in the negotiated rulemaking process by submitting written comments as provided below.

The goal of the negotiated rulemaking process will be to develop by consensus the text of a recommended rule. If a consensus is reached, a draft of the rule, incorporating the consensus and any other appropriate information, recommendations, or materials, will be transmitted to the Department for consideration and use in the formal rulemaking process. If a consensus is unable to be achieved on particular issues, the negotiated rulemaking process may result in a report specifying those areas on which consensus was and was not reached, together with arguments for and against positions advocated by various participants. At the conclusion of the negotiated rulemaking process, the Department intends to commence formal rulemaking with the publication of a proposed rule, using and taking into consideration the results of the negotiated rulemaking process. The final rule is expected to be in place and effective upon the conclusion of the 1999 session of the Idaho Legislature.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning the negotiated rulemaking, contact Sue Richards at (208)373-0502.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this proposal to initiate negotiated rulemaking. All written comments must be received by the undersigned on or before February 25, 1998.

Dated this 4th day of January, 1998.

Paula Junae Saul  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton  
Boise, Idaho 83706-1255  
Fax No. (208)373-0481

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

**16.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS**

**DOCKET NO. 16-0102-9701**

**NOTICE OF CORRECTION TO PENDING RULE AND TEMPORARY RULE**

**CORRECTION:** The following docket is being reprinted to correct an error made by the Office of Administrative Rules. The error was made in the January 7, 1998 Idaho Administrative Bulletin, Volume 98-1, page 159. In Subsection 130.01 in the table in the Map Code section n. SB-4211, under the "Designated Uses - Secondary Contact Recreation" heading of the table, the legend marking was inadvertently struck out. There has been no change made to this section of this entry.

**EFFECTIVE DATE:** This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 1998 Idaho State Legislature for final approval. The amendments to the temporary rule are effective December 1, 1997. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fourth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5228, Idaho Code, notice is hereby given that this agency, with the consent of the Administrative Rules Coordinator, is correcting a transcription error. This action is authorized pursuant to Section 67-5228, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise statement of the correction being made:

In IDAPA 16.01.02, Subsection 130.01 under "Map Code" section of the table, under the "Designated Uses - Secondary Contact Recreation" heading, the legend marking was inadvertently struck out in section "n. SB-4211". The marking has not been changed and should show as not having had any change made to it. The original docket was published in the Idaho Administrative Bulletin, Volume 98-1, January 7, 1998, pages 157 through 180. Only Subsection 130.01 is being reprinted here.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this correction, contact Dennis Stevenson at (208) 334-3577.

Dated this 12th day of January, 1998.

Dennis Stevenson  
Office of the Administrative Rules Coordinator  
Department of Administration  
650 W. State St.  
P.O. Box 83720  
Boise, Idaho 83720-0011

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**IDAPA 16  
TITLE 01  
Chapter 02**

**WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS**

**There are substantive changes to the Pending and Temporary rule.**

**Only Subsection 130.01 of this docket is being reprinted.**

The complete original text was published in the  
 Idaho Administrative Bulletin, Volume 98-1, January 7, 1998,  
 pages 157 through 180.

This rule has been adopted as Final by the Agency  
 and is now pending review by the  
 1998 Idaho State Legislature  
 for final adoption.

**TEXT OF DOCKET NO. 16-0102-9701**

**130. SALMON BASIN.**

The waters found within the Salmon hydrologic basin are designated for use as follows:

(7-1-93)

01. Designated Uses Within Salmon Basin - Table C.

~~(3-20-97)T~~(12-1-97)T

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
a. SB-10	SALMON RIVER - source to East Fork Salmon	#	#	#		#	#	#	#
b. SB-20	SALMON RIVER - E.F. Confluence to Pahsimeroi River	#	#	#		#	#	#	#
c. SB-110	YANKEE FORK - source to mouth	#	#	#		#	#	#	#
d. SB-120	EAST FORK OF SALMON - source to mouth	#	#	#		#	#	#	#
e. SB-130	THOMPSON CREEK - source to mouth		#	#		#		#	
f. SB-140	SQUAW CREEK - source to mouth		#	#		#		#	
g. SB-210	PAHSIMEROI RIVER - source to mouth	#	#	#		#	#	#	#
h. SB-30	SALMON RIVER - Pahsimeroi to Lemhi River	#	#	#		#	#	#	#
i. SB-310	LEMHI RIVER - source to mouth	#	#	#		#	#	#	#

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
j. SB-40	SALMON RIVER - Lemhi River to Middle Fork Salmon	#	#	#		#	#	#	#
k. SB-410	NORTH FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
l. SB-420	PANTHER CREEK - source to Blackbird Creek	#	#	#		#	#	#	#
m. SB-421	BLACKBIRD CREEK - source to <del>mouth</del> , and <u>including, Blackbird Creek Reservoir</u>			<del>#</del> #		#		#	
n. SB-4211	<del>WEST FORK OF BLACKBIRD CREEK - source to mouth</del> <u>BLACKBIRD CREEK - Blackbird Creek Reservoir Dam to Mouth</u>			#		#		#	
<u>o. SB-4212</u>	<u>WEST FORK OF BLACKBIRD CREEK - source to, but not including, the concrete channel</u>			#		#		#	
<u>p. SB-4213</u>	<u>WEST FORK OF BLACKBIRD CREEK - concrete channel to mouth</u>							#	
<u>q. SB-430</u>	PANTHER CREEK - Blackbird Creek to mouth		#	#		#		#	
<u>r. SB-440</u>	MIDDLE FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
<u>s. SB-441</u>	BIG CREEK - source to mouth	#	#	#		#	#	#	#
<u>t. SB-4411</u>	MONUMENTAL CREEK - source to mouth	#	#	#		#	#	#	#
<u>u. SB-50</u>	SALMON RIVER - Middle Fork to South Fork	#	#	#		#	#	#	#
<u>v. SB-510</u>	SOUTH FORK OF SALMON RIVER - source to mouth	#	#	#		#	#	#	#
<u>w. SB-511</u>	EAST FORK OF SOUTH FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
<del>v</del> x. SB-5111	JOHNSON CREEK - source to mouth	#	#	#		#	#	#	#
<del>w</del> y. SB-512	SECESH RIVER - source to mouth	#	#	#		#	#	#	#
<del>x</del> z. SB-60	SALMON RIVER - South Fork to Little Salmon River	#	#	#			#	#	#
<del>y</del> aa. SB-610	LITTLE SALMON RIVER - source to mouth	#	#	#		#	#	#	#
<del>z</del> bb. SB-611	RAPID RIVER - source to mouth	#	#	#		#	#	#	#
<del>a</del> cc. SB-70	SALMON RIVER - Little Salmon River to Whitebird Creek	#	#	#			#	#	#
<del>b</del> dd. SB-710	WHITEBIRD CREEK - source to mouth	#	#	#		#	#	#	
<del>e</del> eee. SB-80	SALMON RIVER - Whitebird Creek to mouth	#	#	#			#	#	#
<del>e</del> fff. SB-810	ROCK CREEK - source to mouth (Johns Creek)		#	#		#	#	#	

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

**16.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS**

**DOCKET NO. 16-0102-9702**

**NOTICE OF CORRECTION TO PENDING RULE AND TEMPORARY RULE**

**CORRECTION:** The following docket is being reprinted to correct an error made by the Office of Administrative Rules. The error was made in the January 7, 1998 Idaho Administrative Bulletin, Volume 98-1, page 183. In Subsection 130.01 in the table in the Map Code section n. SB-4211 under the "Designated Uses - Secondary Contact Recreation" heading of the table, the legend marking was inadvertently struck out. There has been no change made to this section of this entry.

**EFFECTIVE DATE:** This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 1998 Idaho State Legislature for final approval. The amendments to the temporary rule are effective December 1, 1997. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fourth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5228, Idaho Code, notice is hereby given that this agency, with the consent of the Administrative Rules Coordinator, is correcting a transcription error. This action is authorized pursuant to Section 67-5228, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise statement of the correction being made:

In IDAPA 16.01.02, Subsection 130.01 under "Map Code" section of the table, under the "Designated Uses - Secondary Contact Recreation" heading, the legend marking was inadvertently struck out in section "n. SB-4211". The marking has not been changed and should show as not having had any change made to it. The original docket was published in the Idaho Administrative Bulletin, Volume 98-1, January 7, 1998, pages 181 through 185. Only Subsection 130.01 is being reprinted here.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this correction, contact Dennis Stevenson at (208) 334-3577.

Dated this 12th day of January, 1998.

Dennis Stevenson  
Office of the Administrative Rules Coordinator  
Department of Administration  
650 W. State St.  
P.O. Box 83720  
Boise, Idaho 83720-0011

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**IDAPA 16  
TITLE 01  
Chapter 02**

**WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS**

**There are substantive changes to the Pending and Temporary rule.**

**Only Subsection 130.01 of this docket is being reprinted.**

The complete original text was published in the  
 Idaho Administrative Bulletin, Volume 98-1, January 7, 1998,  
 pages 181 through 185.

This rule has been adopted as Final by the Agency  
 and is now pending review by the  
 1998 Idaho State Legislature  
 for final adoption.

**TEXT OF DOCKET NO. 16-0102-9702**

**130. SALMON BASIN.**

The waters found within the Salmon hydrologic basin are designated for use as follows:

(7-1-93)

01. Designated Uses Within Salmon Basin - Table C.

~~(3-1-97)F~~(12-1-97)T

Legend:

- # Protected for General Use
- \*Protected for Future Use
- x Use Protected Above Mining Impact Area

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
a. SB-10	SALMON RIVER - source to East Fork Salmon	#	#	#		#	#	#	#
b. SB-20	SALMON RIVER - E.F. Confluence to Pahsimeroi River	#	#	#		#	#	#	#
c. SB-110	YANKEE FORK - source to mouth	#	#	#		#	#	#	#
d. SB-120	EAST FORK OF SALMON - source to mouth	#	#	#		#	#	#	#
e. SB-130	THOMPSON CREEK - source to mouth		#	#		#		#	
f. SB-140	SQUAW CREEK - source to mouth		#	#		#		#	
g. SB-210	PAHSIMEROI RIVER - source to mouth	#	#	#		#	#	#	#

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
h. SB-30	SALMON RIVER - Pahsimeroi to Lemhi River	#	#	#		#	#	#	#
i. SB-310	LEMHI RIVER - source to mouth	#	#	#		#	#	#	#
j. SB-40	SALMON RIVER - Lemhi River to Middle Fork Salmon	#	#	#		#	#	#	#
k. SB-410	NORTH FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
l. SB-420	PANTHER CREEK - source to Blackbird Creek	#	#	#		#	#	#	#
m. SB-421	BLACKBIRD CREEK - source to <del>mouth</del> , and including, Blackbird Creek Reservoir			<del>#</del> #		#		#	
n. SB-4211	<del>WEST FORK OF BLACKBIRD CREEK - source to mouth</del> BLACKBIRD CREEK - Blackbird Creek Reservoir Dam to Mouth			#		#		#	
o. SB-4212	WEST FORK OF BLACKBIRD CREEK - source to, but not including, the concrete channel			#		#		#	
p. SB-4213	WEST FORK OF BLACKBIRD CREEK - concrete channel to mouth							#	
q. SB-430	PANTHER CREEK - Blackbird Creek to mouth		#	#		#		#	
r. SB-440	MIDDLE FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
s. SB-441	BIG CREEK - source to mouth	#	#	#		#	#	#	#
t. SB-4411	MONUMENTAL CREEK - source to mouth	#	#	#		#	#	#	#
u. SB-50	SALMON RIVER - Middle Fork to South Fork	#	#	#		#	#	#	#



Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
†v. SB-510	SOUTH FORK OF SALMON RIVER - source to mouth	#	#	#		#	#	#	#
†w. SB-511	EAST FORK OF SOUTH FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
†x. SB-5111	JOHNSON CREEK - source to mouth	#	#	#		#	#	#	#
†y. SB-512	SECESH RIVER - source to mouth	#	#	#		#	#	#	#
†z. SB-60	SALMON RIVER - South Fork to Little Salmon River	#	#	#			#	#	#
‡aa. SB-610	LITTLE SALMON RIVER - source to mouth	#	#	#		#	#	#	#
‡bb. SB-611	RAPID RIVER - source to mouth	#	#	#		#	#	#	#
‡cc. SB-70	SALMON RIVER - Little Salmon River to Whitebird Creek	#	#	#			#	#	#
‡dd. SB-710	WHITEBIRD CREEK - source to mouth	#	#	#		#	#	#	
‡ee. SB-80	SALMON RIVER - Whitebird Creek to mouth	#	#	#			#	#	#
‡ff. SB-810	ROCK CREEK - source to mouth (Johns Creek)		#	#		#	#	#	

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.01.06 - SOLID WASTE MANAGEMENT RULES AND STANDARDS**

**DOCKET NO. 16-0106-9801**

**NOTICE OF PROPOSED RULE**

**NOTICE:** In compliance with Section 67-5221(2), Idaho Code, this docket is being reprinted in its entirety. It originally published in the January 7, 1998 Idaho Administrative Bulletin, Volume 98-1, but was inadvertently left out of the Public Notice of Rule-making newspaper notice. The comment period has been extended until February 25, 1998. No changes have been made to the text of the docket from that published in Volume 98-1.

**AUTHORITY:** In compliance with Idaho Code Section 67-5221(1), notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapters 1 and 74, Title 39, Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Idaho Code Section 67-5222(2), a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before February 18, 1998. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The proposed rule adopts a siting license fee schedule as required by the Idaho Solid Waste Facilities Act. The proposed rule requires owners of proposed commercial solid waste facilities to pay a siting license fee at the time that a commercial solid waste siting license application is submitted. The siting license fee is based on the proposed size and volume of municipal solid waste to be accepted at the facility. The proposed fee is from \$3500 to \$7500. The proposed rule also requires that the applicant shall provide to the Department of Health and Welfare a map of the proposed commercial solid waste facility, 10 copies of the siting license application and a single copy of the application in a format suitable for photocopying.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. It is these additions to which public comment should be addressed.

**FEE SUMMARY:** The siting license fee is based on the proposed size of the commercial solid waste facility and the proposed volume of waste to be received at the facility. The fee starts at \$3500 for commercial solid waste facilities less than 5 acres in size and accepting less than 20 tons per day, the fee schedule ends at \$7500 for facilities on greater than 50 acres and proposed to receive more than 100 tons per day. Idaho Code Section 39-7408C authorizes imposition of this fee.

Negotiated rulemaking was not conducted as the Legislature directed the Department of Health and Welfare to undertake this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the proposed rulemaking, contact Barry Burnell at (208)373-0502.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone can submit written comment regarding this proposed rule. All written comments must be received by the undersigned on or before February 25, 1998.

DATED this 4th day of January, 1998.

Paula Junae Saul  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton  
Boise, Idaho 83706-1255  
Phone No. (208)373-0418  
Fax No. (208)373-0481

**TEXT OF DOCKET NO. 16-0106-9801**

**003. DEFINITIONS.**

01. Account. The Waste Tire Grant Account as established pursuant to Section 39-6505, Idaho Code. (12-25-92)
02. Board. The Idaho State Board of Health and Welfare. (12-31-91)
03. Commercial Solid Waste Facility. A facility owned and operated as an enterprise conducted with the intent of making a profit by any individual, association, firm, or partnership for the disposal of solid waste, but excludes a facility owned or operated by a political subdivision, state or federal agency, municipality or a facility owned or operated by any individual, association firm, or partnership exclusively for the disposal of solid waste generated by such individual, association, firm, or partnership. ( )
034. Composting. The biological decomposition of organic waste under controlled conditions. (12-31-91)
045. Conditional Use Permit. A written authorization issued by a District which, by its conditions, may authorize the permittee to construct, install, or operate facilities and conduct specific activities in accordance with specified limitations. (12-25-92)
056. Cover Materials. Any soil or other suitable material that is used to protect the active portion of the solid waste management site. (12-25-92)
067. Department. The Idaho Department of Health and Welfare. (12-25-92)
078. Director. The director of the Department of Health and Welfare or his designee. (12-25-92)
089. Districts. One (1) of the seven (7) district health departments which were created by Title 39, Chapter 4, Idaho Code. (12-25-92)
0910. Division. The Idaho Department of Health and Welfare Division of Environmental Quality. (12-25-92)
101. Domestic Solid Waste. All solid waste which normally originates in the household. (12-31-91)
142. Hazardous Solid Waste. A solid waste that may, by itself or in combination with other solid waste, be infectious, explosive, poisonous, highly flammable, caustic, or otherwise dangerous or injurious to human, plant, or animal life. (12-31-91)
123. Idaho Retreader. A person who accepts passenger and light truck tires generated in Idaho and retreads such tires in Idaho and is registered with the Division in accordance with Subsection 100.02. (12-25-92)
134. Incinerator. A combustion device specifically designed for the volume reduction by burning of combustible community solid wastes. (12-31-91)
145. Land Fill. An area of land or excavation in which solid wastes are placed for permanent disposal and that is not a land application unit, surface impoundment, injection well or waste pile. (12-25-92)
156. Leachate. A liquid that has passed through or emerged from waste and contain soluble, suspended, or miscible materials removed from such waste. (12-25-92)
167. Lift. A compacted layer of solid waste plus its overlying cover material in a sanitary landfill. (12-31-91)

~~178.~~ Motor Vehicle. Any automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination or other vehicle operated on the roads of this state, used to transport persons or property and propelled by power other than muscular power, but motor vehicle does not include bicycles. (12-25-92)

~~189.~~ Municipal Solid Waste Landfill (MSWLF). A discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR 257.2. A MSWLF unit may also receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, small quantity generator waste, and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit also may be a new MSWLF, an existing MSWLF, or lateral expansion. (12-25-92)

~~1920.~~ Open Dump. A landfill which lacks proper management and is not operated with compaction and cover. (12-25-92)

~~201.~~ Passenger and Light Truck Tire. Any motor vehicle tire with a rim diameter of twelve (12) inches through sixteen (16) inches. (12-25-92)

~~242.~~ Person. Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal government department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties. (12-25-92)

~~23.~~ Projected Waste Volume. The total actual or potential solid waste volume in tons per day, or an equivalent measurement, proposed to be disposed at the commercial solid waste facility. ( )

~~224.~~ Public Waters. Includes lakes, ponds, reservoirs, springs, wells, rivers, streams, creeks, marshes, canals, drainage ditches, and all other bodies of surface or underground waters, natural or artificial, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters) which are wholly or partially within or bordering the State or within its jurisdiction. (12-31-91)

~~235.~~ Recycling. The reclamation of solid waste and its subsequent introduction into an industrial process by which the materials is transformed into a new product in such a manner that the original identity as a product is lost. (12-31-91)

~~246.~~ Residue. All of the solid material remaining after combustion of solid waste. (12-31-91)

~~257.~~ Retail Seller of Motor Vehicle Tires and Wholesale Seller of Motor Vehicle Tires. Includes those persons who sell or lease motor vehicles to others in the ordinary course of business. (12-25-92)

~~268.~~ Reuse. The reintroduction of a product into the economic stream without total loss of the original identity. (12-31-91)

~~279.~~ Review Committee. An advisory committee appointed by the Administrator of the Division of Environmental Quality to establish and/or review the percentages in Subsections 100.10.a. and 100.05.a. and review proposals submitted under Subsections 100.05 and 100.06. (12-25-92)

~~2830.~~ Salvage. The reclamation of solid waste at a disposal site. (12-31-91)

~~2931.~~ Sanitary Landfill. A solid waste disposal operation where the wastes are spread on land in thin layers, compacted to the smallest practical volume, and covered with cover material once each day of operation in order to safeguard against environmental pollution, nuisances, and health hazards. (12-31-91)

~~302.~~ Site. A solid waste management site. (12-25-92)

~~33.~~ Site Size. The sum in acres of all proposed solid waste landfill units. ( )

~~344.~~ Solid Waste. Any material defined by Sections 39-103(10) and 39-7403(51), Idaho Code. (12-25-92)

325. Solid Waste Management Site. Any land area used for storage, transfer, processing, separation, incineration, composting, treatment, recycling, reuse, or disposal of solid wastes. (12-31-91)
336. Solid Waste Management System. The entire process, method, or technique used to control solid waste--including generation through reuse, recycling, or disposal, also including the plans, maps, specifications, sites and facilities for the same. (12-31-91)
347. Tire. Shall have the meaning contained in Section 49-121, Idaho Code. (12-25-92)
358. Transfer Station. A fixed or mobile facility used as an adjunct to a solid waste management system whereby solid wastes may be recompactd or otherwise processed and transferred from one (1) vehicle or container to another for transportation to another place. (12-31-91)
369. Waste Tire. A tire that is no longer suitable for its original intended purpose because of wear, damage or defect. (12-25-92)
3740. Waste Tires Generated In Idaho. Tires which first became waste tires in Idaho. (12-25-92)
3841. Waste Tire Collection Site. A site where waste tires are collected before being offered for recycling or reuse and where more than one thousand five hundred (1,500) tires are kept on site on any day. (12-25-92)
3942. Working Face. That portion of a sanitary landfill where solid waste is being dumped and compacted prior to placement of daily cover material. (12-31-91)

**(BREAK IN CONTINUITY OF SECTIONS)**

**101. -- 9953. (RESERVED).**

**994. COMMERCIAL SOLID WASTE SITING LICENSE FEE.**

An application for a commercial solid waste siting license, required by the Idaho Solid Waste Facilities Act, shall be accomplished by a siting license fee in an amount established by these rules. The license fee shall not exceed seven thousand five hundred dollars (\$7,500) and shall be submitted with the siting license application. ( )

01. Commercial Solid Waste Siting License Fee Criteria. The commercial solid waste siting license fee, required by the Idaho Solid Waste Facilities Act and these rules, shall be based on the cost of the Department's review and the characteristics of the proposed commercial solid waste facility, including the projected site size, projected waste volume, and the hydrogeological and atmospheric characteristics surrounding the site. ( )

02. Commercial Solid Waste Siting License Fee Scale. The commercial solid waste siting license fee, required by the Idaho Solid Waste Facilities Act and these rules, shall be determined using the table below. The fee, determined using the table below, may then be adjusted by the Department, if necessary, to reflect the cost of the Department's review taking into account the hydrogeological and atmospheric characteristics surrounding the site.

<b><u>COMMERCIAL SOLID WASTE SITING LICENSE FEE SCALE</u></b>			
<b><u>PROJECTED SOLID WASTE VOLUME</u></b>			
<b><u>Tons per day (TPD)</u></b>			
<u>Site Size</u>	<u>Up to 20 TPD</u>	<u>20 to 100 TPD</u>	<u>More than 100 TPD</u>
<u>5 acres or less</u>	<u>\$3,500</u>	<u>\$4,500</u>	<u>\$5,500</u>
<u>5 to 50 acres</u>	<u>\$4,500</u>	<u>\$5,500</u>	<u>\$6,500</u>
<u>more than 50 acres</u>	<u>\$5,500</u>	<u>\$6,500</u>	<u>\$7,500</u>

( )

03. Notification of Adjustment of the Fee. Within thirty (30) days of receipt of the application and fee, the Department shall notify the applicant if the fee has been adjusted and the date by which any additional fee must be paid by the applicant. ( )

04. Expansion or Enlargement of a Commercial Solid Waste Facility. The expansion or enlargement of a commercial solid waste facility constitutes a new proposal for which a commercial solid waste siting license is required and for which a siting license fee must be paid. All commercial solid waste facilities not in operation on March 20, 1996 must submit a commercial solid waste license application and fee. ( )

05. Commercial Solid Waste Siting License Fee Not Refundable. The commercial solid waste siting license fee, required by the Idaho Solid Waste Facilities Act and by these rules, shall not be refundable and may not be applied toward any subsequent application should the commercial solid waste siting license application be canceled, withdrawn or denied. ( )

**995. COMMERCIAL SOLID WASTE SITING LICENSE APPLICATION.**

In addition to the contents of a Siting License Application, as required in the Idaho Solid Waste Facilities Act, these rules require the applicant to include in the application the following items: ( )

01. Location. A map indicating the location of the proposed commercial solid waste facility. ( )

02. Copies of Application. Ten (10) copies of the completed application. ( )

03. Application Format. A copy of the application in a format prepared for photocopying. ( )

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.02.03 - RULES GOVERNING EMERGENCY MEDICAL SERVICES**

**DOCKET NO. 16-0203-9801**

**NOTICE OF INTENT TO PROMULGATE RULES  
(NEGOTIATED RULEMAKING)**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho code, notice is hereby given that this agency intends to propose rules and desires public comments prior to initiating formal rulemaking procedures. The action is negotiated rulemaking authorized pursuant to Section 39-145(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The proposed changes are being made in response to requests from emergency medical services (EMS) agencies and the state emergency medical services advisory committee (EMSAC) for more standards and definitions of licensure requirements for EMS agencies which function at the advanced life support level and those which provide critical care transportation of patients between health care facilities; a petition for rule-making was also received requesting the addition of a member to EMSAC representing private ambulance services.

The proposed rule change regarding the membership composition of the state emergency medical services advisory committee (EMSAC) would add a seat to the 19 member committee for which only representatives of privately owned ambulance services could be nominated to occupy. Appointment to the three-year term would be made by the Director of the Department of Health and Welfare as is required by the existing rules for all seats.

The proposed rule changes regarding ambulance licensure would establish designation categories to correspond with clinical capabilities of organizations which provide advanced life support (ALS) and critical care transport (CCT). The designations would indicate what combination of capabilities an organization has demonstrated based on staffing and equipment configurations, and the setting (interfacility or emergency prehospital) in which the service intends to function. The rule would also establish minimum training standards for non-paramedic health care personnel employed by ambulance services and for paramedics who would be performing critical care transfers. These changes are intended to primarily impact ALS/CCT ambulance providers.

A preliminary draft of the proposed rule is available for interested parties. To obtain a copy, contact: Dia Gainor, Department of Health and Welfare, Division of Health, 3092 Elder Street, PO Box 83720, Boise, Idaho 83720-0036, telephone: (208) 334-4000.

**PUBLIC HEARING SCHEDULE:** Negotiated rulemaking hearings will be held in March and April, 1998. Please contact Carolyn Thrasher at (208) 334-4000 for hearing locations, dates, and times.

Any other hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than April 15, 1998.

The Department will accept comments on the preliminary draft of the proposed rule through April 17, 1998. A proposed rule will then be developed from the negotiated hearings and written comments.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rule, contact Dia Gainor at (208) 334-4000.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before April 17, 1998.

DATED this 4th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P O Box 83720  
Boise, Idaho 83720-0036  
Telephone: (208) 334-5552/Fax: (208) 334-5548

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.01 - RULES GOVERNING MEDICAID FOR FAMILIES AND CHILDREN**  
**DOCKET NO. 16-0301-9704**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective October 1, 1997. These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 56-209(b), Idaho Code.

**DESCRIPTIVE SUMMARY:** The temporary and proposed rules have been amended in response to public comment and are being amended pursuant to Section 67-5227, Idaho Code.

Comment led to clarification of federal law regarding qualified aliens. A qualified alien defined in P.L. 104-193 and 104-208 and who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces, or spouse or unmarried dependent of a veteran or person on active duty, is eligible. This comment also affects Section 206 which will be removed in another docket.

Only the sections that have changes are printed in this Bulletin. The original text of the proposed rules was published in the November 5, 1997 Administrative Bulletin, Volume 97-11, pages 24 through 27.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5819.

DATED this 4th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16**  
**TITLE 03**  
**Chapter 01**

**RULES GOVERNING MEDICAID FOR FAMILIES AND CHILDREN**

**There are substantive changes  
from the proposed rule text.**

**Only those sections that have changed from the  
original proposed text are printed in this  
Bulletin following this notice.**



The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-11, November 5, 1997,  
pages 24 through 27.

This rule has been adopted as Final by the Agency  
and is now pending review by the  
1999 Idaho State Legislature  
for final adoption.

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**TEXT OF DOCKET NO. 16-0304-9704**

**204. CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT.**

~~The participant must be a citizen or national of the U.S. or an eligible legal non-citizen. Individuals must be U.S. citizens or nationals or qualified legal non-citizens. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Only groups of legal non-citizens listed in Subsections 102.01 through 102.09 may be eligible.~~ (8-22-96)T(8-22-96)T

01. ~~Eligible Legal Non-Citizens Admitted Before August 22, 1996. Eligible legal non-citizens are persons lawfully admitted to the U.S. for permanent residence. Eligible legal non-citizens are also persons lawfully living in the U.S. under color of law. The person can get Medicaid without time limits. Permanent Residents Admitted Before August 22, 1996. Participants must be:~~ (8-22-96)T(8-22-96)T

a. ~~Legal non-citizens lawfully admitted for permanent residence.~~ (8-22-96)T

b. ~~American Indians born in Canada to whom Section 289 of the INA applies or legal non-citizens who are members of Indian tribes.~~ (8-22-96)T

02. ~~Eligible Legal Non-Citizens Admitted August 22, 1996 and Later. The participant must be a citizen of the U.S. or a legal non-citizen. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Only legal non-citizens listed in Subsection 204.03 are legal non-citizens. The participant must provide proof of citizenship or proof of legal non-citizen status. The participant must sign a declaration, under penalty of perjury, attesting to citizenship or legal non-citizen status. The parent or legal guardian must sign for a child or a participant with a legal guardian. Permanent Residents Admitted On or After August 22, 1996. A lawful permanent resident admitted on or after August 22, 1996:~~ (8-22-96)T(8-22-96)T

a. ~~Who is a veteran honorably discharged for a reason other than alienage or is on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or~~ (8-22-96)T

b. ~~Who has lived in the U.S. for five (5) years and has forty (40) quarters of work.~~ (8-22-96)T

03. ~~Definitions for Legal Non-Citizen Requirement. Refugees. A refugee admitted under Section 207 of the INA, a Cuban/Haitian entrant as defined in Section 501(e) of the Refugee Assistance Act of 1980, or an Amerasian admitted under Section 584 of Public Law 100-202 and amended by Public Law 100-461 is eligible:~~ (8-22-96)T(8-22-96)T

a. ~~A permanent resident is a person admitted to the U.S. for permanent residence. For seven (7) years from the date of entry; or~~ (8-22-96)T(8-22-96)T

b. ~~A refugee is a person admitted under 207 of the INA. With no time limit if the refugee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty.~~ (8-22-96)F(8-22-96)T

e. ~~An asylee is a person granted asylum under 208 of the INA.~~ (8-22-96)F

d. ~~A deportee is a person with deportation withheld under 243 of the INA.~~ (8-22-96)F

e. ~~A conditional entrant is a person granted conditional entry under 302(a)(7) of the INA.~~ (8-22-96)F

f. ~~A battered immigrant is an immigrant meeting certain INS entry conditions.~~ (8-22-96)F

04. ~~Legal Non-Citizen Requirements and Limitations. Legal non-citizens, who are otherwise eligible, are subject to the requirements and limitations in Subsections 204.04.a. through 204.04.i. Asylees. An asylee admitted under Section 208 of the INA is eligible:~~ (8-22-96)F(8-22-96)T

a. ~~Permanent residents entering the U.S. August 22, 1996 or later, and having forty (40) quarters of Social Security coverage, can get Medicaid without time limits after they live in the U.S. for five (5) years. For seven (7) years from the date asylee status is assigned; or~~ (8-22-96)F(8-22-96)T

b. ~~Regardless of entry date, honorably discharged veterans, whose discharge reason is not alienage, can get Medicaid without time limits. This includes the veteran's spouse and unmarried dependent children. With no time limit if the asylee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty.~~ (8-22-96)F(8-22-96)T

e. ~~Regardless of entry date, active duty members of the U.S. Armed Forces, who are not on active duty for training only, can get Medicaid without time limits. This includes the participant's spouse and unmarried dependent children.~~ (8-22-96)F

d. ~~Regardless of entry date, refugees can get Medicaid for seven (7) years from their entry date.~~ (8-22-96)F

e. ~~Regardless of entry date, asylees can get Medicaid for seven (7) years from the date asylum is granted.~~ (8-22-96)F

f. ~~Regardless of entry date, individuals whose deportation is withheld can get Medicaid for seven (7) years from the date deportation is withheld.~~ (8-22-96)F

g. ~~Cuban and Haitian Entrants. Cuban and Haitian entrants, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, can get Medicaid for seven (7) years from the date the status is assigned.~~ (8-22-96)F

h. ~~Amerasians. Non-citizens, admitted as Amerasians, can get Medicaid for seven (7) years from the date of entry into the United States.~~ (8-22-96)F

i. ~~American Indians born in Canada to whom the provisions of Section 289 of the Immigration and Nationality Act apply, and members of certain Indian tribes on United States borders, are eligible legal non-citizens.~~ (8-22-96)F

05. ~~Verifying Legal Non-Citizen Status. A participant's legal non-citizen status must be verified through the INS automated Alien Status Verification Index (ASVI). If INS reports the participant's status cannot be verified through ASVI, secondary proof is required before Medicaid can be based on legal non-citizen status. Deportation Withheld. An individual whose deportation has been withheld under Section 241(b)(3) or 243(h) of the INA is eligible:~~ (8-22-96)F(8-22-96)T

- a. For seven (7) years from the date deportation was withheld; or (8-22-96)T
- b. With no time limit if the deportee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)T
06. Conditional Entrants. A conditional entrant admitted under Section 203(a)(7) of the INA who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)T
07. Parolees. A person paroled into the U.S. under Section 212(d)(5) of the INA for a period of at least one (1) year, who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)T
08. Battered Non-Citizen Admitted Before August 22, 1996. A legal non-citizen admitted to the U.S. before August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A) or 204(a)(1)(B) of the INA, as a non-citizen whose deportation is suspended under Section 244(a)(3) of the INA and is a veteran honorably discharged for a reason other than alienage, or on active duty in the U.S. Armed Forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)T
09. Battered Non-Citizen Admitted On or After August 22, 1996. A legal non-citizen admitted to the U.S. on or after August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A) or 204(a)(1)(B) of the INA, or as a non-citizen whose deportation is suspended under Section 244(a)(3) of the INA, who is: (8-22-96)T
- a. A veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or (8-22-96)T
- b. Who has lived in the U.S. for five (5) years. (8-22-96)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO**  
**DOCKET NO. 16-0304-9705**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective September 22, 1996, July 1, 1997 & October 1, 1997. These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 56-202 (b) and 39-106 (l), Idaho Code.

**DESCRIPTIVE SUMMARY:** The temporary and proposed rules have been amended in response to public comment and corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Section 204 of the rules were modified to comply with the current interpretation of Federal law. Three new categories of legal non-citizens (parolees, conditional entrants and battered legal non-citizens) who are veterans or on active duty in the U.S. Armed Forces or their spouse or dependent children have been added to the categories of legal-non-citizen eligible for Food Stamps.

Sections 382 and 406 of the rules adds payments from crime victims compensation programs under the Crime Act of 1984 as amended by P.L. 103-322 to the list of resources excluded by Federal law.

Only the sections that have changes are printed in this Bulletin. The original text of the proposed rules was published in the November 5, 1997 Administrative Bulletin, Volume 97-11, pages 28 through 35.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5819.

DATED this 4th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16**  
**TITLE 03**  
**Chapter 04**

**RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO**

**There are substantive changes  
from the proposed rule text.**

**Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.**

**The complete original text was published in the Idaho Administrative Bulletin, Volume 97-11, November 5, 1997, pages 28 through 35.**

**This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.**

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**TEXT OF DOCKET NO. 16-0304-9705**

**204. CITIZENSHIP OR SATISFACTORY IMMIGRATION STATUS.**

A person must be a U. S. resident to get Food Stamps. A person must be a U.S. citizen or qualified legal noncitizen to get Food Stamps. To be eligible for Food Stamps, legal noncitizens must meet a category in Subsections 204.01 through 204.08. ~~(9-1-97)F(9-1-97)T~~

01. ~~Eligible Immigration Status for Legal Noncitizens. Permanent Residents Admitted Before August 22, 1996. A non-citizen lawfully admitted to the United States for permanent residence before August 22, 1996;~~ ~~(9-1-97)F(9-22-96)T~~

a. ~~Refugees. Refugees admitted under Section 207 of the Immigration and Nationality Act are eligible for Food Stamps for five (5) years from the date the refugee status is assigned. Who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or~~ ~~(9-1-97)F(9-22-96)T~~

b. ~~Asylees. Asylees admitted under Section 208 of the Immigration and Nationality Act are eligible for Food Stamps for five (5) years from the date the asylee status is assigned. Who has forty (40) quarters of work. A quarter worked by the legal non-citizen's parent, while the legal non-citizen was under age eighteen (18) and a quarter worked by the legal non-citizen's spouse during marriage if the legal non-citizen remains married to the spouse or the spouse is deceased can be counted as a quarter of work for the legal non-citizen. Any quarter after January 1, 1997, in which a legal non-citizen received any Federal means-tested benefit is not counted as a quarter of work.~~ ~~(9-1-97)F(9-22-96)T~~

e. ~~Deportation Withheld. Individuals whose deportation is withheld under Section 241(b)(3) and 243(h) of the Immigration and Nationality Act are eligible for Food Stamps for five (5) years from the date the deportation was withheld.~~ ~~(9-22-96)F~~

d. ~~Cuban and Haitian Entrants. Cuban and Haitian entrants, admitted under section 501(e) of the Refugee Education Assistance Act of 1980, are eligible for Food Stamps for five (5) years from the date the status is assigned.~~ ~~(9-22-96)F~~

e. ~~Amerasians. Amerasians, admitted under Section 584(e)(1) of Public Law 100-202, are eligible for Food Stamps for five (5) years from the date of entry.~~ ~~(9-22-96)F~~

f. ~~A permanent resident legal noncitizen admitted under the Immigration and Nationality Act before August 22, 1996, who has forty (40) quarters of work. A quarter worked by the legal noncitizen's parent while the legal noncitizen was under age eighteen (18) and a quarter worked by the legal noncitizen's spouse during marriage if the legal noncitizen remains married to the spouse or the spouse is deceased can be counted as a quarter of work for~~

~~the legal noncitizen. Any quarter after January 1, 1997 in which legal noncitizen received any Federal means tested benefit is not counted as a quarter of work.~~ (9-1-97)T

~~g. A permanent resident legal noncitizen admitted under the Immigration and Nationality Act on or after August 22, 1996, who has lived in the United States for five years since obtaining permanent resident status and who has forty (40) quarters of work.~~ (9-1-97)T

~~h. Veterans. Veterans honorably discharged for a reason other than citizen status. This includes the veteran's spouse and unmarried dependent children.~~ (9-1-97)T

~~i. Members of the U.S. Armed Forces. Active duty members of the U.S. Armed Forces who is not on active duty for training only. This includes the member's spouse and unmarried dependent children.~~ (9-1-97)T

02. Permanent Residents Admitted On or After August 22, 1996. A lawful permanent resident admitted on or after August 22, 1996: (9-22-96)T

a. Who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or (9-22-96)T

b. Who has lived in the United States for five (5) years and has forty (40) quarters of work. (9-22-96)T

03. Refugees. A refugee admitted under Section 207 of the Immigration and Nationality Act, a Cuban/Haitian entrant as defined in Section 501(e) of the Refugee Assistance Act of 1980 or an Amerasian admitted under Section 584 of Public Law 100-202 and amended by Public Law 100-461, is eligible: (9-22-96)T

a. For five (5) years from their date of entry; or (9-22-96)T

b. With no time limit if the refugee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty. (9-22-96)T

04. Asylees. An asylee admitted under Section 208 of the Immigration and Nationality Act is eligible: (9-22-96)T

a. For five (5) years from the date asylee status is assigned; or (9-22-96)T

b. With no time limit if the asylee is a veteran honorably discharged for a reason other than alienage or on active duty for other than training in the U.S. Armed Forces, or the spouse or unmarried dependent of the veteran or person on active duty. (9-22-96)T

05. Deportation Withheld. An individual whose deportation has been withheld under Section 241(b)(3) or 243(h) of the Immigration and Nationality Act is eligible: (9-22-96)T

a. For five (5) years from the date deportation was withheld; or (9-22-96)T

b. With no time limit if the deportee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (9-22-96)T

06. Conditional Entrants. A conditional entrant admitted under Section 203(a)(7) of the Immigration and Nationality Act who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (9-22-96)T

07. Parolees. A person paroled into the United States under Section 212(d)(5) of the Immigration and

Nationality Act for a period of at least one (1) year who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (9-22-96)T

08. Battered Non-citizen. A legal non-citizen admitted to the United States as a battered non-citizen under Section 204(a)(1)(A), or 204(a)(1)(B) of the Immigration and Nationality Act, as a non-citizen whose deportation is suspended under Section 244(a)(3) of the INA who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (9-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**382. RESOURCES EXCLUDED BY FEDERAL LAW.**

Resources listed below are excluded by Federal law: (6-1-94)

01. P.L. 91-646. Reimbursements under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970. (6-1-94)
02. P.L. 92-203. The Alaska Native Claims Settlement Act. (6-1-94)
03. P.L. 93-134 As Amended By P.L. 103-66. Effective January 1, 1994, interest of individual Indians in trust or restricted lands. (6-1-94)
04. P.L. 93-288 as amended by P.L. 100-707. Payments from Disaster Relief and Emergency Assistance. (6-1-94)
05. P.L. 93-531. Relocation assistance to Navajo and Hopi tribal members. (6-1-94)
06. P.L. 94-114. The submarginal lands held in trust by the U.S. for certain Indian tribal members. (6-1-94)
07. P.L. 94-189. The Sac and Fox Indian Claims Agreement. (6-1-94)
08. P.L. 94-540. Funds to the Grand River Band of Ottawa Indians. (6-1-94)
09. P.L. 95-433. The Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission. (6-1-94)
10. P.L. 96-420. The Passamaquoddy Tribe and Penobscot Nation funds paid under the Maine Indian Claims Settlement Act of 1980. (6-1-94)
11. P.L. 97-403. Payments to the Turtle Mountain Band of Chippewas, Arizona. (6-1-94)
12. P.L. 97-408. Payments to the Blackfeet, Gros Ventre and Asiniboine Tribes, Montana and the Papago Tribe, Arizona. (6-1-94)
13. P.L. 98-64 & P.L. 97-365. Up to two thousand dollars (\$2,000) of any per capita payment, and any purchases made with such payment, from funds held in trust by the Secretary of the Interior. (6-1-94)
14. P.L. 98-123. Funds awarded to members of the Red Lake Band of Chippewa Indians. (6-1-94)
15. P.L. 98-500. Funds provided to heirs of deceased Indians under the Old Age Assistance Claims Settlement Act, except for per capita shares in excess of two thousand dollars (\$2,000). (6-1-94)

16. P.L. 99-264. Payments to the White Earth Band of Chippewa Indian Tribe, Michigan. (6-1-94)
17. P.L. 99-346. Payments to the Saginaw Chippewa Indian Tribe, Michigan. (6-1-94)
18. P.L. 99-498 & P.L. 102-523 Student Loans. Financial assistance funded in whole or in part under Title IV of the Higher Education Act. (6-1-94)
19. P.L. 101-41. Payments to the Puyallup Tribe of Indians, Washington. (6-1-94)
20. P.L. 101-277. Payments to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Florida and the Independent Seminole Indians of Florida. (6-1-94)
21. P.L. 101-426. Payments from the Radiation Exposure Compensation Act. (6-1-94)
22. P.L. 102-237. Resources of any mixed household member who gets TAFI or SSI. (7-1-97)T
23. P.L. 103-286. Effective 8-1-94, payments made to victims of Nazi persecution. (1-1-95)
24. P.L. 103-436. Payments to the Confederated Tribes of the Colville Reservation for the Grand Coulee Dam Settlement. (7-1-97)
25. P.L. 104-204. Payments to children with spina bifida born to Vietnam veterans. (10-1-97)T
26. Civil Liberties Act of 1988. Restitution payments to persons of Japanese ancestry who were evacuated, relocated and interned during World War II as a result of government action. These payments are also excluded when paid to the statutory heirs of deceased internees. (6-1-94)
27. SSI Payments Under Zebley v. Sullivan Ruling. Retroactive lump sum SSI payments, for childhood disability, paid as a result of the Zebley v. Sullivan ruling. The payments are excluded resources for six (6) months from receipt. (6-1-94)
28. BIA Education Grant. Bureau of Indian Affairs (BIA) Higher Education Grant Program. (6-1-94)
29. WIC. Benefits from the Women, Infants, and Children (WIC) Program. (6-1-94)
30. JTPA. Payments from the Job Training Partnership Act (JTPA) (6-1-94)
31. Energy Assistance. Payments from Federal, state, or local energy assistance, including insulation and weatherization payments. (6-1-94)
32. HUD Payments. HUD retroactive subsidy payments for tax and utilities are excluded the month received and the next month. (6-1-94)
33. Agent Orange Settlement Fund. Product liability payments, made by Aetna Life and Casualty from the Agent Orange Settlement Fund. Effective January 1, 1989. (6-1-94)
34. Federal EITC. Federal Earned Income Tax Credit (EITC) is excluded for the month of receipt and the following month. Federal EITC is excluded for twelve (12) months from receipt if the household member receives EITC while participating in the Food Stamp program. The exclusion continues only while the household participates in the Food Stamp program without a break, for up to twelve (12) months. The month of receipt is the first month of the exclusion. (1-1-95)
35. Crime Act of 1984 as amended by P.L. 103-322. Payments from a crime victim compensation program. (10-1-97)T



**(BREAK IN CONTINUITY OF SECTIONS)**

**406. INCOME EXCLUDED BY FEDERAL LAW.**

Income listed below is excluded by Federal law when computing Food Stamp eligibility: (6-1-94)

01. P.L. 91-646. Reimbursements under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970. (6-1-94)

02. P.L. 92-203. Funds from the Alaska Native Claims Settlement Act. (6-1-94)

03. P.L. 93-113 RSVP. Payments under Title I and Title II, "Retired Senior Volunteer Program" (RSVP), the Foster Grandparents Program and the Domestic Volunteer Services Act of 1973. (6-1-94)

04. P.L. 93-134 as amended by P.L. 103-66. Effective January 1, 1994, up to two thousand dollars (\$2,000) per calendar year of payments derived from interest of individual Indians in trust or restricted lands. (6-1-94)

05. P.L. 93-288, P.L. 100-707 Disaster Relief. Payments from Disaster Relief and Emergency Assistance Disaster Relief Act. (6-1-94)

06. P.L. 93-531. Relocation assistance to Navajo and Hopi tribal members. (6-1-94)

07. P.L. 94-114. The submarginal lands held in trust by the U.S. for certain Indian tribal members. (6-1-94)

08. P.L. 94-189. Funds from the Sac and Fox Indian Claims Agreement. (6-1-94)

09. P.L. 94-540. Funds to the Grand River Band of Ottawa Indians. (6-1-94)

10. P.L. 95-433. Funds to the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission. (6-1-94)

11. P.L. 96-420. Funds to the Passamaquoddy Tribe and Penobscot Nation funds paid under the Maine Indian Claims Settlement Act of 1980. (6-1-94)

12. P.L. 97-300 JTPA. All earned and unearned income received from the Job Training Partnership Act (JTPA) of 1982, except for earned income received from taking part in on-the-job training programs. (6-1-94)

13. P.L. 97-365 & P.L. 98-64. Up to two thousand dollars (\$2,000) of any per capita payment, and any purchases made with such payment, from funds held in trust by the Secretary of the Interior. (6-1-94)

14. P.L. 97-403. Funds to the Turtle Mountain Band of Chippewas, Arizona. (6-1-94)

15. P.L. 97-408. Funds to the Blackfeet, Gros Ventre, and Assiniboine Tribes, Montana. Funds to the Papago Tribe, Arizona. (6-1-94)

16. P.L. 98-123. Funds to the Red Lake Band of Chippewa Indians. (6-1-94)

17. P.L. 98-500. Funds from the Old Age Assistance Claims Settlement Act, provided to heirs of deceased Indians, except for per capita shares over two thousand dollars (\$2,000). (6-1-94)

18. P.L. 99-264. Funds to the White Earth Band of Chippewa Indians, Minnesota. (6-1-94)

19. P.L. 99-346. Funds to the Saginaw Chippewa Indian Tribe, Michigan. (6-1-94)

20. P.L. 100-175. Effective October 1, 1987, payments received by persons age 55 and older under Title

- V, "Senior Community Service Employment Program." (6-1-94)
21. P.L. 100-435 WIC. Benefits from the Women, Infants, and Children (WIC) Program. (6-1-94)
22. P.L. 100-435. Payments or reimbursements for work related or child care expenses made under an employment, education, or training program under Title IV-A of the Social Security Act after September 19, 1988. (6-1-94)
23. P.L. 100-435. Payments made to a JSAP participant for work, training, or education-related expenses or for dependent care. (6-1-94)
24. P.L. 101-41. Funds to the Puyallup Tribe of Indians, Washington. (6-1-94)
25. P.L. 101-277. Payments to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Florida, and the Independent Seminole Indians of Florida. (6-1-94)
26. P.L. 101-426. Payments made under the Radiation Exposure Compensation Act. (6-1-94)
27. P.L. 101-508. At-risk child care payments. (6-1-94)
28. P.L. 101-610 and P.L. 103-82. Allowances, earnings and payments to persons participating in programs under the National and Community Services Act. The exclusion applies to all payments made under the AmeriCorps Program except earnings to individuals participating in an on-the-job training program equivalent to those under Section 204(5), Title II, of the Job Training Partnership Act. Those earnings are counted if the person is nineteen (19) years or older, or under nineteen (19) but not under parental control. (8-1-94)
29. P.L. 102-237. Amounts needed for attainment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act. (6-1-94)
30. P.L. 102-325. Educational income authorized under the BIA student assistance programs and under Title IV of the Higher Education Amendments of 1992. (6-1-94)
31. P.L. 103-286. Effective 08-01-94, payments made to victims of Nazi persecution. (1-1-95)
32. P.L. 103-436. Payments to the Confederated Tribes of the Colville Reservation for the Grand Coulee Dam Settlement. (7-1-97)
33. P.L. 104-204. Payments to children with spina bifida born to Vietnam veterans. (10-1-97)T
34. Agent Orange Settlement Fund. Product liability payments, made by Aetna Life and Casualty from the Agent Orange Settlement Fund. Any other fund for the settlement of Agent Orange liability litigation. (6-1-94)
35. Civil Liberties Act of 1988. Restitution payments to persons of Japanese ancestry who were evacuated, relocated and interned during World War II as a result of government action. These payments are also excluded when paid to the statutory heirs of deceased internees. (6-1-94)
36. Negative Utility Allowance. Negative utility payments from HUD and FmHA. (8-1-94)
37. Energy Assistance. Payments from Federal energy assistance, including insulation and weatherization payments. (9-22-96)T
38. SSI Payments Under Zebley v. Sullivan Ruling. Retroactive lump sum SSI payments, for childhood disability, paid as a result of the Zebley v. Sullivan ruling. The payments are excluded resources for six (6) months from receipt. (6-1-94)
39. VISTA Payments. Payments under Title I, VISTA, University Year for Action and Urban Crime Prevention Program to volunteers who were receiving Food Stamps or public assistance when they joined the

program. Payments to volunteers who were getting an income exclusion for a VISTA or other Title I allowance before the Food Stamp Act of 1977. Temporary breaks in participation do not alter the exclusion. (6-1-94)

40. Crime Act of 1984 as Amended by P.L. 103-322. Payments from a crime victim compensation program. (10-1-97)T

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

**16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED**

**DOCKET NO. 16-0305-9704**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective August 22, 1996. These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 39-106 (l); 56-202 (b), Idaho Code.

**DESCRIPTIVE SUMMARY:** The proposed rules have been amended in response to public comment and to make typographical, transcriptional, and clerical corrections. The rules are being amended pursuant to Section 67-5227, Idaho Code.

Comment led to the clarification of Section 102 of the rule. Battered aliens and permanent resident aliens who enter the U.S. on or after August 22, 1996, must reside in the U.S. for five years before benefits can be paid. A qualified alien defined in Public Law 104-193 and 104-208 and who is a veteran honorably discharged for a reason other than alienage or on active duty in the Armed Forces, or spouse or unmarried dependent of the veteran or person on active duty, is eligible. The order of the sections was changed for clarification purposes.

Section 167 of the rule is revised to provide that a conviction for fraudulent misrepresentation of residency by the SSI or AABD program results in denial of AABD for ten (10) years. Prior text did not include the SSI and AABD programs as sources of the disqualifying conviction.

Comment led to the clarification of Section 605 of the rule. Battered aliens and permanent resident aliens who enter the U.S. on or after August 22, 1996, must reside in the U.S. for five years before benefits can be paid. A qualified alien defined in Public Law 104-193 and 104-208 and who is a veteran honorably discharged for a reason other than alienage or on active duty in the Armed Forces, or spouse or unmarried dependent of the veteran or person on active duty, is eligible. The order of the sections was changed for clarification purposes.

Section 648 of the rule is changed to remove this rule. A person denied SSI or AABD following a conviction for fraudulently misrepresenting residency is not eligible for Medicaid.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the November 5, 1997 Administrative Bulletin, Volume 97-11, pages 36 through 40.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5819.

DATED this 4th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
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**IDAPA 16**  
**TITLE 03**  
**Chapter 05**

**RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED**

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The complete original text was published in the Idaho Administrative Bulletin, Volume 97-11, November 5, 1997, pages 36 through 40.

This rule has been adopted as Final by the Agency and is now pending review by the 1999 Idaho State Legislature for final adoption.

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**TEXT OF DOCKET NO. 16-0305-9704**

**102. CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT.**

~~The participant Individuals must be a U.S. citizens or nationals of the U.S. or an eligible qualified legal non-citizens. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Only groups of legal non-citizens listed in Subsections 102.01 through 102.09 may be eligible.~~ (8-22-96)T(8-22-96)T

01. ~~Eligible Legal Non-Citizen Permanent Residents~~ Admitted Before August 22, 1996. Participants must be: (8-22-96)T(8-22-96)T

a. Legal non-citizens lawfully admitted for permanent residence and getting AABD on August 22, 1996. (8-22-96)T

b. Legal non-citizens of any age who are blind or disabled under the SSI disability criteria and lawfully admitted for permanent residence. (8-22-96)T

c. American Indians born in Canada to whom Section 289 of the INA applies or legal non-citizens who are members of Indian tribes. (8-22-96)T

d. Legal non-citizens who started AABD or SSI before January 1, 1979. (8-22-96)T

02. ~~Eligible Citizen and Legal Non-Citizen Status August 22, 1996 and Later. A participant must be a citizen of the U.S. or an eligible legal non-citizen. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. The participant must provide proof of citizenship or proof of legal non-citizen status. The participant must sign a declaration, under penalty of perjury, attesting to citizenship or legal non-citizen status. The parent or legal guardian must sign for a child or a participant with a legal guardian. Only the groups of legal non-citizens listed in Subsections 102.02.a. through 102.02.h. may be eligible. Permanent Residents Admitted On or After August 22, 1996. A lawful permanent resident admitted on or after August 22, 1996:~~ (8-22-96)T(8-22-96)T

a. ~~Lawful permanent residents with forty (40) quarters of work not receiving AABD on August 22, 1996, who have lived in the U. S. for five (5) years. Who is a veteran honorably discharged for a reason other than alienage or is on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or~~ (8-22-96)T(8-22-96)T

~~b. Refugees admitted under Section 207 of the INA, for seven (7) years from the date refugee status is assigned. Who has lived in the U.S. for five (5) years and has forty (40) quarters of work. (8-22-96)†(8-22-96)†~~

~~e. Asylees granted asylum under Section 208 of the INA, for seven (7) years from the date asylee status is granted. (8-22-96)†~~

~~d. Deportees with deportation withheld under Section 243 of the INA, for seven (7) years from the date deportation is withheld. (8-22-96)†~~

~~e. Veterans honorably discharged for a reason other than alienage. This includes the veteran's spouse and unmarried dependent children. (8-22-96)†~~

~~f. Active duty members of the U.S. Armed Forces who are not on active duty for training only. This includes the active duty member's spouse and unmarried dependent children. (8-22-96)†~~

~~g. Cuban and Haitian entrants admitted under Section 501(e) of the Refugee Education Assistance Act of 1980 for seven (7) years from the date the status is assigned. (8-22-96)†~~

~~h. Amerasians admitted under Section 584(c)(1) of Public Law 100-202 for seven (7) years from the date of entry. (8-22-96)†~~

~~03. Verifying Legal Non-Citizen Status. A participant's legal non-citizen status must be verified through the INS automated Alien Status Verification Index (ASVI). If INS reports the participant's status cannot be verified through ASVI, secondary proof is required before AABD can be based on legal non-citizen status. Refugees. A refugee admitted under Section 207 of the INA, a Cuban/Haitian entrant as defined in Section 501(e) of the Refugee Assistance Act of 1980, or an Amerasian admitted under Section 584 of Public Law 100-202 and amended by Public Law 100-461 is eligible: (8-22-96)†(8-22-96)†~~

~~a. For seven (7) years from the date of entry; or (8-22-96)†~~

~~b. With no time limit if the refugee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)†~~

~~04. Asylees. An asylee admitted under Section 208 of the INA is eligible: (8-22-96)†~~

~~a. For seven (7) years from the date asylee status is assigned; or (8-22-96)†~~

~~b. With no time limit if the asylee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)†~~

~~05. Deportation Withheld. An individual whose deportation has been withheld under Section 241(b)(3) or 243(h) of the INA is eligible: (8-22-96)†~~

~~a. For seven (7) years from the date deportation was withheld; or (8-22-96)†~~

~~b. With no time limit if the deportee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)†~~

~~06. Conditional Entrants. A conditional entrant admitted under Section 203(a)(7) of the INA who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)†~~

~~07. Parolees. A person paroled into the U.S. under Section 212(d)(5) of the INA for a period of at least one (1) year, who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S.~~

Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)T

08. Battered Non-Citizen Admitted Before August 22, 1996. A legal non-citizen admitted to the U.S. before August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A) or 204(a)(1)(B) of the INA, as a non-citizen whose deportation is suspended under Section 244(a)(3) of the INA who is: (8-22-96)T

a. A veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or (8-22-96)T

b. Blind or disabled of any age under the SSI disability criteria and lawfully admitted for permanent residence; or (8-22-96)T

c. Lawfully admitted for permanent residence and getting AABD. (8-22-96)T

09. Battered Non-Citizen Admitted On or After August 22, 1996. A legal non-citizen admitted to the U.S. on or after August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A) or 204(a)(1)(B) of the INA, or as a non-citizen whose deportation is suspended under Section 244(a)(3) of the INA, who is: (8-22-96)T

a. A veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or (8-22-96)T

b. Who has lived in the U.S. for five (5) years. (8-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**167. FRAUDULENT MISREPRESENTATION OF RESIDENCY.**

A participant is ineligible for AABD for ten (10) years if he was convicted in a federal or state court of having fraudulently misrepresented residence to get AABD, SSI, TAFI, Food Stamps or Medicaid from two (2) or more states at the same time. (8-22-96)T(8-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**605. CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT.**

~~The participant~~ Individuals must be a U.S. citizens or nationals of the U.S. or an eligible qualified legal non-citizens. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Only groups of legal non-citizens listed in Subsections 102.01 through 102.09 may be eligible. (8-22-96)T(8-22-96)T

~~01. Eligible Legal Non-Citizens Before August 22, 1996. Eligible legal non-citizens are persons lawfully admitted to the U.S. for permanent residence, persons lawfully living in the U.S. under color of law, persons of any age who are blind or disabled under the SSI disability criteria and lawfully admitted for permanent residence, American Indians born in Canada to whom Section 289 of the INA applies and certain legal non-citizens who are members of an Indian Tribe. These legal non-citizens may be eligible for Medicaid without time limits. Permanent Residents Admitted Before August 22, 1996. Participants must be:~~ (8-22-96)T(8-22-96)T

a. Legal non-citizens lawfully admitted for permanent residence. (8-22-96)T

b. Legal non-citizens of any age who are blind or disabled under the SSI disability criteria and lawfully admitted for permanent residence. (8-22-96)T

~~c. American Indians born in Canada to whom Section 289 of the INA applies or legal non-citizens who are members of Indian tribes. (8-22-96)T~~

~~d. Legal non-citizens who started AABD or SSI before January 1, 1979. (8-22-96)T~~

~~02. Eligible Citizen and Legal Non-Citizen Status August 22, 1996 and Later. A participant must be a citizen of the U.S. or an eligible legal non-citizen. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. The participant must provide proof of citizenship or proof of legal non-citizen status. The participant must sign a declaration, under penalty of perjury, attesting to citizenship or legal non-citizen status. The parent or legal guardian must sign for a child or a participant with a legal guardian. Only the groups of legal non-citizens listed in Subsections 605.02.a. through 605.02.j. may be eligible. Permanent Residents Admitted On or After August 22, 1996. A lawful permanent resident admitted on or after August 22, 1996: (8-22-96)T(8-22-96)T~~

~~a. Lawful permanent residents with forty (40) quarters of work, not receiving Medicaid on August 22, 1996, who have lived in the United States for five (5) years. Who is a veteran honorably discharged for a reason other than alienage or is on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or (8-22-96)T(8-22-96)T~~

~~b. Refugees admitted under Section 207 of the INA, for seven (7) years from the date refugee status is assigned. Who has lived in the U.S. for five (5) years and has forty (40) quarters of work. (8-22-96)T(8-22-96)T~~

~~e. Asylees granted asylum under Section 208 of the INA, for seven (7) years from the date asylee status is granted. (8-22-96)T~~

~~d. Deportees with deportation withheld under Section 243 of the INA, for seven (7) years from the date deportation is withheld. (8-22-96)T~~

~~e. Veterans honorably discharged for a reason other than alienage. This includes the veteran's spouse and unmarried dependent children. (8-22-96)T~~

~~f. Active duty members of the U.S. Armed Forces who are not on active duty for training only. This includes the active duty member's spouse and unmarried dependent children. (8-22-96)T~~

~~g. Conditional entrants granted conditional entry under 302(a)(7) of the INA. (8-22-96)T~~

~~h. Battered immigrants admitted under Sections 204(a)(1)(A) or 204(a)(1)(B) of the INA and such immigrants whose deportation is suspended under Section 244(a)(3) of the INA and battered immigrant's children. (8-22-96)T~~

~~i. Cuban and Haitian entrants admitted under section 510(c) of the Refugee Education Assistance Act of 1980 for seven (7) years from the date entrant status is assigned. (8-22-96)T~~

~~j. Amerasians admitted under Section 584(c)(1) of Public Law 100-202 for seven (7) years from the date of entry. (8-22-96)T~~

~~03. Verifying Legal Non-Citizen Status. A participant's legal non-citizen status must be verified through the INS automated Alien Status Verification Index (ASVI). If INS reports the participant's status cannot be verified through ASVI, secondary proof is required before AABD can be based on legal non-citizen status. Refugees. A refugee admitted under Section 207 of the INA, a Cuban/Haitian entrant as defined in Section 501(e) of the Refugee Assistance Act of 1980, or an Amerasian admitted under Section 584 of Public Law 100-202 and amended by Public Law 100-461 is eligible: (8-22-96)T(8-22-96)T~~

~~a. For seven (7) years from the date of entry; or (8-22-96)T~~

~~b. With no time limit if the refugee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)T~~



04. Asylees. An asylee admitted under Section 208 of the INA is eligible: (8-22-96)T
- a. For seven (7) years from the date asylee status is assigned; or (8-22-96)T
- b. With no time limit if the asylee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)T
05. Deportation Withheld. An individual whose deportation has been withheld under Section 241(b)(3) or 243(h) of the INA is eligible: (8-22-96)T
- a. For seven (7) years from the date deportation was withheld; or (8-22-96)T
- b. With no time limit if the deportee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)T
06. Conditional Entrants. A conditional entrant admitted under Section 203(a)(7) of the INA who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)T
07. Parolees. A person paroled into the U.S. under Section 212(d)(5) of the INA for a period of at least one (1) year, who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty. (8-22-96)T
08. Battered Non-Citizen Admitted Before August 22, 1996. A legal non-citizen admitted to the U.S. before August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A) or 204(a)(1)(B) of the INA, as a non-citizen whose deportation is suspended under Section 244(a)(3) of the INA who is: (8-22-96)T
- a. A veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or (8-22-96)T
- b. Blind or disabled of any age under the SSI disability criteria and lawfully admitted for permanent residence; or (8-22-96)T
- c. Lawfully admitted for permanent residence and getting AABD. (8-22-96)T
09. Battered Non-Citizen Admitted On or After August 22, 1996. A legal non-citizen admitted to the U.S. on or after August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A) or 204(a)(1)(B) of the INA, or as a non-citizen whose deportation is suspended under Section 244(a)(3) of the INA, who is: (8-22-96)T
- a. A veteran honorably discharged for a reason other than alienage or on active duty in the U.S. Armed Forces for other than training or the spouse or unmarried dependent of the veteran or person on active duty; or (8-22-96)T
- b. Who has lived in the U.S. for five (5) years. (8-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**648. PERSON DENIED SSI FOR FRAUDULENT RESIDENCY (RESERVED).**

~~A person denied SSI or AABD for ten (10) years following a conviction for misrepresenting residency to get SSI in two (2) or more states at the same time is not disqualified from Medicaid.~~ (8-22-96)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)**  
**DOCKET NO. 16-0308-9702**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective July 1, 1997. These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 39-106 (l) and 56-202 (b), Idaho Code.

**DESCRIPTIVE SUMMARY:** The temporary and proposed rules have been amended in response to public comment. Corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Comment led to the clarification in rule. Battered aliens and permanent resident aliens, who enter the U.S. on or after 8-22-96, must reside in the U.S. for five years before benefits can be paid. A qualified alien defined in P.L. 104-193 and 104-208 and who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces, or spouse or unmarried dependent of veteran or person on active duty, is eligible.

Only the sections that have changes are printed in this Bulletin. The original text of the proposed rules was published in the November, 1997 Administrative Bulletin, Volume 97-11, pages 41 through 45.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5819.

DATED this 4th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
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Boise, Idaho 83720-0036  
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**IDAPA 16**  
**TITLE 03**  
**Chapter 08**

**RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)**

**There are substantive changes  
from the proposed rule text.**

**Only those sections that have changed from the  
original proposed text are printed in this  
Bulletin following this notice.**

The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-11, November 5, 1997,  
pages 41 through 45.

This rule has been adopted as Final by the Agency  
and is now pending review by the  
1999 Idaho State Legislature  
for final adoption.

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**TEXT OF DOCKET NO. 16-0308-9702**

**131. CITIZENSHIP AND LEGAL NON-CITIZEN CRITERIA.**

~~Eligible~~ Individuals must be citizens of the United States or be qualified legal non-citizens. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Only the groups of legal non-citizens listed in Subsections 132.01 through 132.09 may be eligible. ~~(7-1-97)F(7-1-97)T~~

01. ~~Permanent Residents with Forty (40) Quarters of Work. Lawful permanent residents with forty (40) quarters of work.~~ Permanent Residents Admitted Before August 22, 1996. A non-citizen lawfully admitted to the United States for permanent residence before August 22, 1996. ~~(7-1-97)F(7-1-97)T~~

02. ~~Veterans. Veterans honorably discharged for a reason other than citizen status. This includes the veteran's spouse and unmarried dependent children.~~ Permanent Residents Admitted On or After August 22, 1996. A lawful permanent resident admitted on or after August 22, 1996: ~~(7-1-97)F(7-1-97)T~~

a. Who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty; or ~~(7-1-97)T~~

b. Who has lived in the United States for five (5) years and has forty (40) quarters of work. ~~(7-1-97)T~~

03. ~~Members of the U.S. Armed Forces. Active duty members of the U.S. Armed Forces, who are not on active duty for training only. This includes the active duty member's spouse and unmarried dependent children.~~ Refugees. A refugee admitted under Section 207 of the Immigration and Nationality Act, a Cuban/Haitian entrant as defined in Section 501(e) of the Refugee Assistance Act of 1980, or an Amerasian admitted under Section 584 of Public Law 100-202 and amended by Public Law 100-461, is eligible: ~~(7-1-97)F(7-1-97)T~~

a. For five (5) years from their date of entry; or ~~(7-1-97)T~~

b. With no time limit if the refugee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty. ~~(7-1-97)T~~

04. ~~Refugees. Refugees admitted under Section 207 of the Immigration and Nationality Act, for five (5) years from the date refugee status is assigned.~~ Asylees. An asylee admitted under Section 208 of the Immigration and Nationality Act is eligible: ~~(7-1-97)F(7-1-97)T~~

a. For five (5) years from the date asylee status is assigned; or ~~(7-1-97)T~~

b. With no time limit if the asylee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces, or spouse or unmarried dependent of the veteran or person on active duty.

(7-1-97)T

05. ~~Asylees. Asylees admitted under Section 208 of the Immigration and Nationality Act, for five (5) years from the date asylee status is assigned. Deportation Withheld. An individual whose deportation has been withheld under Section 241(b)(3) or 243(h) of the Immigration and Nationality Act is eligible:~~ (7-1-97)F(7-1-97)T

a. ~~For five (5) years from the date deportation was withheld; or~~ (7-1-97)T

b. ~~With no time limit if the deportee is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty.~~ (7-1-97)T

06. ~~Deportation Withheld. Individuals whose deportation has been withheld under Section 243(h) of the Immigration and Nationality Act, for five (5) years from the date the deportation was withheld. Conditional Entrants. A conditional entrant admitted under Section 203(a)(7) of the Immigration and Nationality Act and who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty.~~ (7-1-97)F(7-1-97)T

07. ~~Battered Immigrants. Battered immigrants admitted under Section 204(a)(1)(A), 204(a)(1)(B) or such immigrants whose deportation is suspended under 244(a)(3) of the Immigration and Nationality Act. Parolees. A person paroled into the United States under Section 212(d)(5) of the Immigration and Nationality Act for a period of at least one (1) year and who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty.~~ (7-1-97)F(7-1-97)T

08. ~~Conditional Entrants. Conditional entrants admitted under Section 203(a)(7) of the Immigration and Nationality Act. Battered Non-citizen Admitted Before August 22, 1996. A legal non-citizen admitted to the United States before August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A), 204(a)(1)(B), as a non-citizen whose deportation is suspended under Section 244(a)(3) of the Immigration and Nationality Act and is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty.~~ (7-1-97)F(7-1-97)T

09. ~~Permanent Residents Admitted Before August 22, 1996. A non-citizen lawfully admitted to the United States for permanent residence before August 22, 1996. Battered Non-citizen Admitted On or After August 22, 1996. A legal non-citizen admitted to the United States on or after August 22, 1996, as a battered non-citizen under Section 204(a)(1)(A), 204(a)(1)(B), or as a non-citizen whose deportation is suspended under Section 244(a)(3) of the Immigration and Nationality Act:~~ (7-1-97)F(7-1-97)T

a. ~~Who is a veteran honorably discharged for a reason other than alienage or on active duty in the U.S. armed forces for other than training, or the spouse or unmarried dependent of the veteran or person on active duty; or~~ (7-1-97)T

b. ~~Who has lived in the United States for five (5) years.~~ (7-1-97)T

10. ~~Cuban and Haitian Entrants. Cuban and Haitian entrants as defined in section 501(e) of the Refugee Education Assistance Act of 1980, for five (5) years from the date the status is assigned.~~ (7-1-97)F

11. ~~Amerasians. Non-citizens admitted as Amerasians, for five (5) years from the date of entry into the United States.~~ (7-1-97)F

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0309-9712**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective January 1, 1998. These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 56-202 (b) and 56-203 (g), Idaho Code.

**DESCRIPTIVE SUMMARY:** The temporary and proposed rules have been amended in response to public comment and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the November 5, 1997 Administrative Bulletin, Volume 97-11, pages 46 through 50.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Pam Mason at (208) 334-5760.

DATED this 4th day of January, 1998.

Sherri Kovach  
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**IDAPA 16**  
**TITLE 03**  
**Chapter 09**

**RULES GOVERNING MEDICAL ASSISTANCE**

**There are substantive changes  
from the proposed rule text.**

**Only those sections that have changed from the  
original proposed text are printed in this  
Bulletin following this notice.**

**The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-11, November 5, 1997,  
pages 46 through 50.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1999 Idaho State Legislature  
for final adoption.**

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**TEXT OF DOCKET NO. 16-0309-9712**

**079. INPATIENT PSYCHIATRIC HOSPITAL SERVICES.**

Pursuant to the philosophy and principles governing children's mental health services in Chapter 24, Title 16, Idaho Code, the Department will pay for medically necessary in-patient psychiatric hospital services in a free standing psychiatric hospital (IMD) or psychiatric unit of a general hospital for recipients under the age of twenty-one (21). Recipients must have a DSM IV diagnosis with substantial impairment in thought, mood, perception or behavior. Admissions must be prior-authorized by the Department or its designee or, during non-business hours, authorized on a retrospective basis. (1-1-98)T

01. Medical Necessity Criteria. Both severity of illness and intensity of services criteria must be met for admission to an IMD or psychiatric unit of a general hospital. (1-1-98)T

a. Severity of illness criteria. The child must meet one (1) of the following criteria related to the severity of his psychiatric illness: (1-1-98)T

i. Is currently dangerous to self as indicated by at least one (1) of the following: (1-1-98)T

(1) Has actually made an attempt to take his own life in the last seventy-two (72) hours (details of the attempt must be documented); or (1-1-98)T

(2) Has demonstrated self-mutilative behavior within the past seventy-two (72) hours (details of the behavior must be documented); or (1-1-98)T

(3) Has a clear plan to seriously harm himself, overt suicidal intent, and lethal means available to follow the plan (this information can be from the child or a reliable source and details of the child's plan must be documented); or (1-1-98)T

(4) A mental health professional has information from the child or a reliable source that the child has a current plan, specific intent, or recurrent thoughts to seriously harm himself and is at significant risk to making an attempt to carry out the plan without immediate intervention (details must be documented); or (1-1-98)T

ii. Child is actively violent or aggressive and exhibits homicidal ideation or other symptoms which indicate he is a probable danger to others as indicated by one (1) of the following: (1-1-98)T

(1) The child has actually engaged in behavior harmful or potentially harmful to others or caused serious damage to property which would pose a serious threat of injury or harm to others within the last twenty-four (24) hours (description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to the present); or (1-1-98)T

(2) The child has made threats to kill or seriously injure others or to cause serious damage to property which would pose a threat of injury or harm to others and has effective means to carry out the threats (details of threats must be documented); or (1-1-98)T

(3) A mental health professional has information from the child or a reliable source that the child has a current plan, specific intent, or recurrent thoughts to seriously harm others or property and is at significant risk of making the attempt without immediate intervention (details must be documented); or (1-1-98)T

- iii. Child is gravely impaired as indicated by at least one (1) of the following criteria: (1-1-98)T
- (1) The child has such limited functioning that his physical safety and well being are in jeopardy due to his inability for basic self-care, judgment and decision making (details of the functional limitations must be documented); or (1-1-98)T
- (2) The acute onset of psychosis or severe thought disorganization or clinical deterioration has rendered the child unmanageable and unable to cooperate in non-hospital treatment (details of the child's behaviors must be documented); or (1-1-98)T
- (3) There is a need for treatment, evaluation or complex diagnostic testing where the child's level of functioning or communication precludes assessment and/or treatment in a non-hospital based setting, and may require close supervision of medication and/or behavior. (1-1-98)T
- b. Intensity of service criteria. The child must meet all of the following criteria related to the intensity of services needed to treat his mental illness: (1-1-98)T
- i. It is documented by the Regional Mental Health Authority that less restrictive services in the community do not exist or do not meet the treatment or diagnostic needs of the child, or the child has been unresponsive to treatment at a less intensive level of care. The services considered, tried, and/or needed must be documented; and (1-1-98)T
- ii. The services provided in the hospital can reasonably be expected to improve the child's condition or prevent further regression so that inpatient services will no longer be needed; and (1-1-98)T
- iii. Treatment of the child's psychiatric condition requires services on an inpatient basis, including twenty-four (24) hour nursing observation, under the direction of a psychiatrist. The child requiring this treatment must not be eligible for independent passes or unit passes without observation or being accompanied by hospital personnel or a responsible other. (1-1-98)T
- c. Exceptions. The requirement to meet intensity of service criteria may be waived for first time admissions if severity of illness is met and the physician is unable to make a diagnosis or treatment decision while the child is in his current living situation. The waiver of the intensity of services requirement can be for no longer than forty-eight (48) hours and is not waivable for repeat hospitalizations. (1-1-98)T
02. Exclusions. If a child meets one (1) or more of the following criteria, Medicaid reimbursement will be denied: (1-1-98)T
- a. The child is unable to actively participate in an outpatient psychiatric treatment program solely because of a major medical condition, surgical illness or injury; or (1-1-98)T
- b. The child demonstrates anti-social or criminal behavior or has criminal or legal charges against him and does not meet the severity of illness or intensity of service criteria; or (1-1-98)T
- c. The child has anti-social behaviors or conduct problems that are a danger to others but are not attributable to a mental illness (DSM IV) with substantial impairment in thought, mood or perception; or (1-1-98)T
- d. The child has a primary diagnosis of mental retardation and the primary treatment need is related to the mental retardation; or (1-1-98)T
- e. The child lacks a place to live and/or family supports and does not meet severity of illness and intensity of service criteria; or (1-1-98)T
- f. The child has been suspended or expelled from school and does not meet severity of illness and intensity of service criteria; or (1-1-98)T

- g. Substance abuse is the primary diagnosis and the primary treatment need. (1-1-98)T
03. Prior Authorization. Prior authorization must be obtained from the Department or its designee prior to admission. Only those admissions during non-business hours will be considered emergency admissions for prior authorization purposes. Requests for prior authorization must include: (1-1-98)T
- a. Diagnosis; and (1-1-98)T
- b. Summary of present medical findings including symptoms, complaints and complications indicating the need for admission; and (1-1-98)T
- c. Medical history; and (1-1-98)T
- d. Mental and physical functional capacity; and (1-1-98)T
- e. Prognosis; and (1-1-98)T
- f. Recommendation by a physician for admission, preferably the primary care physician. If the child is enrolled in the Healthy Connection (HC) program, a HC referral is required. (1-1-98)T
04. Emergency Admissions. Only those admissions which occur during other than normal business hours will be considered for payment without prior authorization. An emergency for purposes of a waiver of the prior authorization requirement is defined as, "the sudden onset of acute psychiatric symptoms of such severity that the absence of immediate medical attention could reasonably be expected to result in serious dysfunction of any bodily organ/part or death of the individual or harm to another person." A court-ordered admission or physician's emergency certificate does not, in itself, justify characterizing the admission as an emergency admission. The severity of illness and intensity of services criteria must be met. The information for authorization of services must be FAXED to the Department or its designee on the next business day following the emergency admission. (1-1-98)T
05. Length of Stay. An initial length of stay will be established by the Department or its designee. An initial length of stay will usually be for no longer than five (5) days. For first time admissions where intensity of services criteria is not met the initial length of stay may not exceed forty-eight (48) hours. A hospital may request an extension when the appropriate care of the recipient indicates the need for hospital days in excess of the originally approved number. The extension request may be made no later than the last authorized day or last business day before the last authorized day. Extensions will be considered on a case by case basis and will be for no longer than three (3) days at a time. Extensions will be based on the following criteria: (1-1-98)T
- a. The medical necessity criteria that was present upon admission still exists; and (1-1-98)T
- b. A plan of care that includes services which are required to be provided on an in-patient basis; and (1-1-98)T
- c. There is documentation that supports continued hospitalization will improve the recipient's condition. (1-1-98)T
06. Individual Plan of Care. The individual plan of care is a written plan developed for the recipient upon admission to an in-patient psychiatric hospital to improve his condition to the extent that acute psychiatric care is no longer necessary. The plan of care must be developed and implemented within seventy-two (72) hours of admission, reviewed at least every three (3) days, and must: (1-1-98)T
- a. Be based on a diagnostic evaluation that includes examination of the medical, behavioral, and developmental aspects of the recipient's situation and reflects the need (medical necessity criteria) for in-patient care; and (1-1-98)T
- b. Be developed by an interdisciplinary team capable of assessing the child's immediate and long range therapeutic needs, developmental priorities and personal strengths and liabilities, assessing the potential resources of the child's family, setting the treatment objectives, and prescribing therapeutic modalities to achieve the



- plan's objectives. The team must include at a minimum: (1-1-98)T
- i. Board-certified psychiatrist (preferably with a specialty in child psychiatry); or (1-1-98)T
  - ii. A licensed psychologist and a physician licensed to practice medicine or osteopathy; or (1-1-98)T
  - iii. A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental disease and a licensed professional counselor-private practice; and (1-1-98)T
  - iv. Either a certified social worker-private practice or a registered nurse with specialized training or one (1) year's experience in treating mentally ill individuals (preferably children); or (1-1-98)T
  - v. A licensed occupational therapist who has had specialized training or one (1) year of experience in treating mentally ill individuals (preferably children); and (1-1-98)T
  - vi. The recipient and his parents, legal guardians, or others into whose care he will be released after discharge. (1-1-98)T
- c. State treatment objectives (related to conditions that necessitated the admission); and (1-1-98)T
- d. Prescribe an integrated program of therapies, treatments (including medications), activities (including special procedures to assure the health and safety of the child), and experiences designed to meet the objectives; and (1-1-98)T
- e. Include a discharge and post discharge plan designed to achieve the child's discharge at the earliest possible time and include plans for coordination of community services to ensure continuity of care with the recipient's family, school and community upon discharge. (1-1-98)T
07. Provider Qualifications. Inpatient hospital psychiatric services for individuals under age twenty-one (21) must be provided under the direction of a physician in a facility accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and licensed by the State of Idaho or the state in which they provide services. Facilities currently providing psychiatric hospital services under the authority of Family and Community Services that are certified by the Health Care Financing Administration have until ~~July~~ October 1, 1998 to comply with this requirement. To provide services beyond emergency medical screening and stabilization treatment, the hospital must have a separate psychiatric unit with staff qualified to provide psychiatric services to children. General hospitals licensed to provide services in Idaho which are not JCAHO certified may not bill for psychiatric services beyond emergency screening and stabilization ~~(1-1-98)T~~ (1-1-98)T
08. Payment. The recipient's admission and length of stay is subject to preadmission, concurrent and retrospective review by the Department or its designee. If such review identifies that an admission or continued stay is not medically necessary, then no Medicaid payment will be made. (1-1-98)T
- a. In reimbursing for inpatient hospital psychiatric services the Department will pay the lessor of customary charges or the reasonable cost of semi-private rates for inpatient hospital care in accordance with the rules set forth in IDAPA 16.03.10, "Rules Governing Medicaid Provider Reimbursement in Idaho." (1-1-98)T
  - b. The cost of services that would be the responsibility of the Department of Education for school age children cannot be considered in the cost of inpatient psychiatric hospital services. (1-1-98)T
09. Record Keeping. A written report of each evaluation and the plan of care must be entered into the child's record at the time of admission or if the child is already in the facility, immediately upon completion of the evaluation or plan. (1-1-98)T
10. Utilization Review (UR). The facility must have in effect a written utilization review plan that provides for review of each child's need for the services that the hospital furnishes him. The UR plan must meet the requirements under 42 CFR 456.201 through 456.245. (1-1-98)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0309-9713**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202 (b); 56-203 (g), Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 5, 1997 Administrative Bulletin, Volume 97-11, pages 51 through 54.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Lloyd Forbes at (208) 334-5795.

DATED this 4th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16**  
**TITLE 03**  
**Chapter 09**

**RULES GOVERNING MEDICAL ASSISTANCE**

**There are no substantive changes  
from the proposed rule text.**

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-11, November 5, 1997,  
pages 51 through 54.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1999 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE  
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**

**DOCKET NO. 16-0309-9714**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202 (b) and 56-203 (g), Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 5, 1997, Administrative Bulletin, Volume 97-11, pages 55 through 59.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Lloyd Forbes at (208) 334-5795.

DATED this 4th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
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**IDAPA 16  
TITLE 03  
Chapter 09**

**RULES GOVERNING MEDICAL ASSISTANCE**

**There are no substantive changes  
from the proposed rule text.**

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-11, November 5, 1997,  
pages 55 through 59.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1999 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE  
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**

**DOCKET NO. 16-0309-9715**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202 (b) and 56-203(g), Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 5, 1997 Administrative Bulletin, Volume 97-11, pages 60 and 61.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Robbie Charlton at (208) 334-5924.

DATED this 4th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
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**IDAPA 16  
TITLE 03  
Chapter 09**

**RULES GOVERNING MEDICAL ASSISTANCE**

**There are no substantive changes  
from the proposed rule text.**

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-11, November 5, 1997,  
pages 60 and 61.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1999 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0309-9716**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective January 1, 1998. These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 56-202 (b) and 56-203 (g), Idaho Code.

**DESCRIPTIVE SUMMARY:** The temporary and proposed rules have been amended in response to public comment and are being amended pursuant to Section 67-5227, Idaho Code.

In Section 106 language was added to allow the Department more flexibility in what DME and supplies require prior authorizing. Medical necessity language to C-PAP and Bi-PAP machines has been added.

Section 107 changes lab level requirements for oxygen to current medical practice accepted levels for oxygen therapy.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the November 5, 1997 Administrative Bulletin, Volume 97-11, pages 62 through 76.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Pam Mason at (208) 334-5760.

DATED this 4th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
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**IDAPA 16**  
**TITLE 03**  
**Chapter 09**

**RULES GOVERNING MEDICAL ASSISTANCE**

**There are substantive changes  
from the proposed rule text.**

**Only those sections that have changed from the  
original proposed text are printed in this  
Bulletin following this notice.**

The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-11, November 5, 1997,  
pages 62 through 76.

This rule has been adopted as Final by the Agency  
and is now pending review by the  
1999 Idaho State Legislature  
for final adoption.

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**TEXT OF DOCKET NO. 16-0309-9706**

**106. DURABLE MEDICAL EQUIPMENT AND MEDICAL SUPPLIES.**

The Department will purchase or rent medically necessary cost effective durable medical equipment and medical supplies for recipients residing in community settings including those provided through home health agency plans of care which meet the requirements found in Subsections 105.01 and 105.02. No payment will be made for any recipient's DME or medical supplies that are included in the per diem payment while such an individual is an inpatient in a hospital NF, or ICF/MR. (1-1-98)T

01. Medical Necessity Criteria. DME/medical supplies will be purchased only if ordered in writing (signed and dated) by a physician. The following information to support the medical necessity of the item(s) shall be included in the physician's order and accompany all requests for prior authorization or be kept on file with the DME provider for items which do not require prior authorization: (1-1-98)T

a. The recipient's medical diagnosis and prognosis including current information on the medical condition which requires the use of the supplies and/or medical equipment; and (1-1-98)T

b. An estimate of the time period that the medical equipment or supply item will be necessary and frequency of use. As needed (PRN) orders must include the conditions for use and the expected frequency; and (1-1-98)T

c. For medical equipment, a full description of the equipment needed. All modifications or attachments to basic equipment must be supported; and (1-1-98)T

d. For medical supplies, the type and quantity of supplies necessary must be identified; and (11-1-86)

e. The number of months the equipment or supplies will be needed; and (1-1-98)T

f. Additional information may be requested by the Department or its designee for specific equipment and/or supplies such as, but not limited to, wheelchairs, hospital beds, blood glucose monitors or oxygen. (1-1-98)T

02. Medical Equipment Program Requirements. All claims for durable medical equipment are subject to the following guidelines: (1-1-98)T

a. Unless specified by the Department, All durable medical equipment must be prior authorized by the Department or its designee except for the following items, when the cost of these items is less than one hundred dollars (\$100): ~~(1-1-98)T~~(1-1-98)T

i. Walkers, canes and crutches; and (10-31-89)

ii. Grab bars, toilet seat extenders and hand-held showers; and (10-31-89)

- iii. Sliding boards and bath benches/chairs; and (10-31-89)
- iv. Equipment for the treatment of decubitus ulcers as listed in Subsection ~~106.02.f.xviii-~~  
106.02.e.xxiii. (~~10-22-93~~)(1-1-98)T
- b. All equipment, excluding those items listed in Subsection 106.02.a. will be rented unless the Department or its designee decides that it would be more cost effective to purchase it. All rentals require prior authorization by the Department or its designee and are subject to the following guidelines: (1-1-98)T
  - i. Rental payments, including intermittent payments, shall automatically be applied to the purchase of the equipment. When rental payments equal the purchase price of the equipment, ownership of the equipment shall pass to the Department. (10-1-91)
  - ii. The Department may choose to continue to rent certain equipment without purchasing it. Such items include but are not limited to apnea monitors. (1-1-98)T
  - iii. The total monthly rental cost of a DME item shall not exceed one-twelfth (1/12) of the total purchase price of the item. A minimum rental rate of fifteen (\$15) per month is allowed on all DME items. (1-1-98)T
- c. No reimbursement will be made for the cost of repairs (materials or labor) covered under the manufacturer's warranty. The date of purchase and warranty period must be kept on file by the DME vendor. The following warranty periods are required to be provided on equipment purchased by the Department: (1-1-98)T
  - i. A power drive wheelchair shall have a minimum one (1) year warranty period; (1-1-98)T
  - ii. An ultra light wheelchair shall have a lifetime warranty period; (10-22-93)
  - iii. An active duty lightweight wheelchair shall have a minimum five (5) year warranty period; (1-1-98)T
  - iv. All other wheelchairs shall have a minimum one (1) year warranty period; (1-1-98)T
  - v. All electrical components and new or replacement parts shall have a minimum six (6) month warranty period; (1-1-98)T
  - vi. All other DME not specified above shall have a minimum one (1) year warranty period; (1-1-98)T
  - vii. If the manufacturer denies the warranty due to user misuse/abuse, that information shall be forwarded to the Department at the time of the request for repair or replacement; (10-1-91)
  - viii. The monthly rental payment shall include a full service warranty. All routine maintenance, repairs, and replacement of rental equipment is the responsibility of the provider. (10-22-93)
- d. Any equipment purchased will remain the property of the Department and return of the equipment to the Department may be required. Recipients who meet one (1) of the following criteria should check with the Department or its designee for instructions on the disposition of the equipment: (1-1-98)T
  - i. The recipient is no longer eligible for MA; or (11-1-86)
  - ii. The recipient no longer requires the use of the equipment; or (11-1-86)
  - iii. The recipient expires. (10-1-91)
- e. Covered equipment is limited to the following listed items: (11-1-86)
  - i. Apnea or cardiac monitors/alarms; and (11-1-86)

- ii. Bilirubin lights; and (1-1-98)T
- iii. C-PAP machines; and (10-29-92)
- iv. Commode chairs and toilet seat extenders; and (11-1-86)
- v. Crutches and canes; and (11-1-86)
- vi. Electronic bone growth stimulators; and (11-1-86)
- vii. Electric or hydraulic patient lift devices designed to transfer a person to and from bed to bathtub, but excluding lift chairs, devices attached to motor vehicles, and wall mounted chairs which lift persons up and down stairs; and (1-1-98)T
- viii. Home dialysis equipment; and (1-1-98)T
- ix. Grab bars for the bathroom adjacent to the toilet and/or bathtub; and (11-1-86)
- x. Hand-held showers; and (11-1-86)
- xi. Head gear (protective); and (1-1-98)T
- xii. Hearing aids (see Section 108) for coverage and limitations); and (1-1-98)T
- xiii. Home blood glucose monitoring equipment; and (11-1-86)
- xiv. Hospital beds, mattresses, trapeze bars, and side rails; and (11-1-86)
- xv. Intravenous infusion pumps, insulin infusion pumps, and/or NG tube feeding pumps, IV poles/stands, intrathecal kits; and (1-1-98)T
- xvi. IPPB machines, hand-held nebulizers, air therapy vests, and manual or electric percussor; and (1-1-98)T
- xvii. Medication organizers; and (1-1-98)T
- xviii. Oxygen concentrators; and (11-1-86)
- xix. Pacemaker monitors; and (11-1-86)
- xx. Respirators, compressors and breathing circuit humidifiers; and (11-1-86)
- xxi. Sliding boards and bath benches/chairs; and (11-1-86)
- xxii. Suction pumps; and (11-1-86)
- xxiii. Sheep skins, foam or gel pads for the treatment of decubitus ulcers; and (1-1-98)T
- xxiv. Traction equipment; and (1-1-98)T
- xxv. Transcutaneous and/or neuromuscular electric nerve stimulators; and (11-1-86)
- xxvi. Walkers; and (11-1-86)
- xxvii. Wheelchairs, manual and electric. (1-1-98)T
- 03. Coverage Conditions - Equipment. The following medical equipment is subject to the following



limitations and additional documentation requirements: (1-1-98)T

a. Wheelchairs. The Department will provide the least costly wheelchair which is appropriate to meet the recipient's medical needs. The Department will authorize the purchase of one (1) wheelchair per recipient not more often than once every five (5) years. Specially designed seating systems for wheelchairs shall not be replaced more often than once every five (5) years. Wheelchairs and seating systems are expected to provide for expected growth stages and enlargement of the system without replacement of the complete system for a minimum of five (5) years. Wheelchairs shall be authorized in accordance with the following criteria: (1-1-98)T

i. In addition to the physician's information, each request for a wheelchair must be accompanied by a written evaluation by a physical therapist or an occupational therapist. The evaluation must include documentation of the appropriateness and cost effectiveness of the specific wheelchair and all modifications and/or attachments and its ability to meet the recipient's long-term medical needs; (1-1-98)T

ii. Manual wheelchairs will be authorized based on the recipient's need according to the following criteria: (1-1-98)T

(1) The recipient must be nonambulatory or have severely limited mobility and require a mobility aid to participate in normal daily activities and the alternative would be confinement to a bed or chair; (1-1-98)T

(2) A standard lightweight wheelchair will be authorized if the recipient's condition is such that he cannot propel a standard weight wheelchair; (1-1-98)T

(3) An ultra light weight wheelchair will be authorized if the recipient's conditions are such that he cannot propel a lightweight or standard weight wheelchair. (1-1-98)T

iii. Electric wheelchairs are purchased only if the recipient's medical needs cannot be met by a manual wheelchair. The attending physician must certify that the power drive wheelchair is a safe means of mobility for the recipient and all of the following criteria are met: (1-1-98)T

(1) The recipient is permanently disabled; and (1-1-98)T

(2) The disability is such that, because of severe upper extremity weakness or lack of function, the recipient cannot operate any manual wheelchair. (1-1-98)T

b. Electronic blood glucose testing devices with voice synthesizers are covered only when the following documentation is submitted and verified by the attending physician: (1-1-98)T

i. The recipient has been determined to be legally blind and is unable to read a standard glucose monitor (this does not include any correctable vision defects); and (1-1-98)T

ii. The recipient lives alone or has no care giver available during the times when the glucose testing must be done. (1-1-98)T

c. Electronic pain suppression/muscle stimulation devices TENS Units are purchased only when the effectiveness of such devices is documented by the physician and only after: (1-1-98)T

i. The pain has been present for a minimum of three (3) months; and (1-1-98)T

ii. Other treatment modalities have been tried and failed (documentation must be submitted with request for prior authorization; ~~(1-1-98)T~~(1-1-98)T

iii. The effectiveness of the device is documented following a maximum of a two (2) month trial rental period; and (1-1-98)T

iv. The physician determines that the recipient is likely to derive significant therapeutic benefit from the continuous use of the device over a long period of time. (1-1-98)T

- d. Electric hospital beds are purchased or rented only when the following is documented by the physician: (1-1-98)T
- i. The recipient's medical condition is such that he is unable to operate a manual hospital bed; and (1-1-98)T
  - ii. The recipient is unable to change position as needed without assistance; and (1-1-98)T
  - iii. The recipient resides in an independent living situation where there is no one to provide assistance with a manual bed for the major portion of the day. (10-31-89)
- e. Continuous positive airway pressure (C-PAP) machines are purchased or rented only in the following circumstances: (10-29-92)
- i. The physician certifies that the recipient's diagnosis is obstructive sleep apnea, which is supported by a sleep study; and (1-1-98)T
  - ii. There is documentation that the recipient's oxygen saturations improve with the use of the machine or respiratory events can be controlled with use of this machine. The machine may be rented for three (3) to six (6) months to determine its effectiveness. ~~(1-1-98)T~~(1-1-98)T
  - f. Bilevel positive airway pressure (BiPAP) are purchased or rented only in the following circumstances: (10-22-93)
    - i. A C-PAP machine has been proven ineffective in treating obstructive sleep apnea; and/or (10-22-93)
    - ii. The C-PAP machine has proven ineffective during titration; and/or (1-1-98)T
    - iii. Used in place of a ventilator. (10-22-93)
04. Medical Supply Program Requirements. All claims for medical supply items are subject to the following requirements: (1-1-98)T
- a. The Department ~~will~~ may purchase a one (1) month supply of necessary medical supplies for the treatment or amelioration of a medical condition identified by the attending physician in an amount not to exceed one hundred dollars (\$100) per month without prior authorization. Any combination of one (1) month's worth of supplies greater than one hundred dollars (\$100) ~~requires~~ may require prior authorization by the Department or its designee. The prior authorization period will be established by the Department or its designee. ~~(1-1-98)T~~(1-1-98)T
  - b. Each request for prior authorization must include all information required in Subsection 106.01. (1-1-98)T
  - c. Covered supplies are limited to the following: (11-1-86)
    - i. Catheter supplies including catheters, drainage tubes, collection bags, and other incidental supplies; and (11-1-86)
    - ii. Cervical collars; and (11-1-86)
    - iii. Colostomy and/or urostomy supplies; and (11-1-86)
    - iv. Disposable supplies necessary to operate Department approved medical equipment such as suction catheters, syringes, saline solution, etc.; and (11-1-86)
    - v. Dressings and bandages to treat wounds, burns, or provide support to a body part; and (11-1-86)

- vi. Fluids for irrigation; and (11-1-86)
  - vii. Incontinence supplies (See Subsection ~~106.04.e.~~ 106.05.b. for limitations); and ~~(10-22-93)~~(1-1-98)T
  - viii. Injectable supplies including normal saline and Heparin but excluding all other prescription drug items; and (10-31-89)
  - ix. Blood glucose or urine glucose checking/monitoring materials (tablets, tapes, strips, etc.), automatic injectors; and (1-1-98)T
  - x. Therapeutic drug level home monitoring kits. (10-31-89)
  - xi. Oral, enteral, or parenteral nutritional products (See Subsection 106.05.a. for limitations and additional documentation requirements). (1-1-98)T
05. Coverage Conditions - Supplies. The following medical supply items are subject to the following limitations and additional documentation requirements: (1-1-98)T
- a. Nutritional products. All nutritional products of any amount must be prior authorized by the Department or its designee. Nutritional products will be purchased under the following circumstances: (1-1-98)T
    - i. A nutritional plan shall be developed and be on file with the Department or its designee and shall include appropriate nutritional history, the recipient's current height, weight, age and medical diagnosis. For recipients under the age of twenty-one (21), a growth chart including weight/height percentile shall be included; (1-1-98)T
    - ii. The plan shall include goals for either weight maintenance and/or weight gain and shall outline steps to be taken to decrease the recipient's dependence on continuing use of nutritional supplements; (10-1-91)
    - iii. Documentation of evaluation and updating of the nutritional plan and assessment by a physician periodically as determined by the Department. (10-22-93)
  - b. Incontinent supplies. Incontinent supplies are covered for persons over four (4) years of age only and do not require prior authorization unless the cost is in excess of one hundred dollars (\$100) per month or the recipient needs supplies in excess of the following limitations: (1-1-98)T
    - i. Diapers are restricted in number to two hundred forty (240) per month. If the physician documents that additional briefs are medically necessary, the Department or its designee may authorize additional amounts on an individual basis. (1-1-98)T
    - ii. Disposable underpads are restricted to one hundred fifty (150) per month. (10-22-93)
    - iii. Pullups are only allowed when prior authorized and when it is documented by the physician that the recipient is participating in a toilet training program. (1-1-98)T
06. Program Abuse. The use or provision of DME/medical supply items to an individual other than the recipient for which such items were ordered is prohibited. Violators are subject to penalties for program fraud and/or abuse which will be enforced by the Department. The Department shall have no obligation to repair or replace any piece of durable medical equipment that has been damaged, defaced, lost or destroyed as a result of neglect, abuse, or misuse of the equipment. Recipients suspected of the same shall be reported to the SUR/S committee. (10-22-93)
07. Billing Procedures. The Department will provide billing instructions to providers of DME/medical supplies. When prior authorization by the Department or its designee is required, the authorization number must be included on the claim form. (1-1-98)T

08. Fees and Upper Limits. The Department will reimburse according to Subsection 060.04 Individual Provider Fees. (12-31-91)

09. Date of Service. Unless specifically authorized by the Department or its designee the date of services for durable medical equipment and supplies is the date of delivery of the equipment and/or supply(s). (1-1-98)T

**107. OXYGEN AND RELATED EQUIPMENT.**

MA will provide payment for oxygen and oxygen-related equipment based upon the Department's fee schedule. Such services are considered reasonable and necessary only for recipients with significant hypoxemia and certain related conditions. In addition, providers must be eligible for Medicare program participation prior to the issuance of a Medicaid provider number. (1-1-98)T

01. Medical Necessity Documentation. Oxygen and related equipment are provided only upon the written order of a physician that includes the following information: (1-1-98)T

- a. A diagnosis of the disease requiring home oxygen use; and (11-1-86)
- b. The flow rate and oxygen concentration; and (11-1-86)
- c. An estimate of the frequency and duration of use. A prescription of "oxygen PRN" or "oxygen as needed" is not acceptable; and (1-1-98)T
- d. The laboratory or other evidence prescribed in Subsection 107.02; and (1-1-98)T
- e. The type of system(s) needed. A portable oxygen system may be covered to complement a stationary system if necessary, or by itself, to provide oxygen for use during exercise by a recipient with exercise-induced hypoxemia. To be considered, a request for a portable oxygen system must include: (1-1-98)T
  - i. A description of the activities or exercise routine that a recipient undertakes on a regular basis which requires a portable oxygen system; and (1-1-98)T
  - ii. A description of the medically therapeutic purpose to be served by the portable system that cannot be served by a stationary system; and (11-1-86)
  - iii. Documentation that the use of the portable system results in clinical improvement in the recipient's condition. (11-1-86)

02. Laboratory Evidence. Because of the potential for conflict of interest, the results of arterial blood gas and/or oxygen saturation tests conducted by the oxygen supplier cannot be used to establish the recipient's need for home oxygen. This restriction applies to the supplier's employee, its corporate officers, or any associated or related organization. The results must come from tests conducted by a provider who will not benefit financially from a finding of coverage for home oxygen services, and initial claims for oxygen therapy must include: (1-1-98)T

- a. The results of a blood gas study as evidence of the need ~~of~~ for administration of oxygen in the home. This may be either a measurement of the partial pressure of oxygen (PO<sub>2</sub>) in arterial blood or a measurement of arterial oxygen saturation obtained by oximetry; and ~~(1-1-98)T~~(1-1-98)T
- b. The condition under which the studies are performed must be stated, i.e., at rest, while sleeping, while exercising, on room air, or if while on oxygen the amount, body position during testing, and similar information necessary for interpreting the evidence; and (11-1-86)
- c. Laboratory evidence of the need for oxygen therapy due to significant hypoxemia will be considered to exist in the following circumstances; (5-1-92)
  - i. An arterial PO<sub>2</sub> at or below fifty-five (55) mmHg or an arterial oxygen saturation at or below ~~eighty-eight~~ ninety percent (~~88~~90%), taken at rest, breathing room air; or ~~(7-1-97)~~(1-1-98)T

ii. An arterial PO<sub>2</sub> at or below fifty-five (55) mmHg or an arterial oxygen saturation at or below ~~eighty-eight ninety~~ percent (~~8890~~%) taken during sleep for a patient who demonstrates an arterial PO<sub>2</sub> at or above ~~fifty-six five~~ (565) mmHg, or an arterial oxygen saturation at or above ~~eighty-nine ninety~~ percent (~~8990~~%) while awake or greater than normal fall in oxygen level during sleep (~~a decrease in arterial PO<sub>2</sub> more than ten (10) mmHg or a decrease in arterial oxygen saturation more than five percent (5%)~~) associated with symptoms or signs reasonably attributable to hypoxemia, i.e., impairment of cognitive processes and nocturnal restlessness or insomnia. In either of these cases, coverage is provided only for nocturnal use of oxygen; or (7-1-97)(1-1-98)T

iii. If during exercise it is demonstrated that the oxygen saturation level falls below ~~eighty-eight ninety~~ percent (~~8890~~%), supplemental oxygen will be provided during exercise if there is evidence that the use of oxygen improves the hypoxemia that was demonstrated during exercise when the patient was breathing room air. (5-1-92)(1-1-98)T

d. Coverage is provided for patients whose arterial PO<sub>2</sub> is at or above ~~fifty-six five~~ (565) mmHg or whose arterial blood oxygen saturation is at or above ~~eighty-nine ninety~~ percent (~~8990~~%) if there is: (7-1-97)(1-1-98)T

i. Dependent edema suggesting congestive heart failure; or (11-1-86)

ii. "P" pulmonale on EKG (P wave greater than three (3) mm in standard leads II, III, or AVF); or (7-1-97)

iii. Erthrocythemia with a hematocrit greater than fifty-six percent (56%);or (1-1-98)T

iv. A diagnosis of cluster headaches which has not responded to medications and there is documentation of successful treatment on a trial basis in the emergency room or physician's office. (1-1-98)T

v. Lab studies are not required for recipients age zero (0) to six (6) months. (1-1-98)T

03. Prior Authorization. Prior authorization for oxygen is required by the Department or its designee for the following: (1-1-98)T

a. Recipients age seven (7) months to twenty (20) years of age if there is a physician's order but lab study requirements of Subsection 107.02 are not met. (1-1-98)T

b. When the diagnosis is cluster headaches or other condition listed is Subsection 107.02.d. (1-1-98)T

04. Service Exclusions. Payment is excluded in the following circumstances: (11-1-86)

a. Recipients with angina pectoris in the absence of hypoxemia; and (11-1-86)

b. Recipients who experience breathlessness without corpulmonale or evidence of hypoxemia; and (11-1-86)

c. Recipients with severe peripheral vascular disease resulting in clinically evident desaturation in one (1) or more extremities; and (7-1-97)

d. Recipients with terminal illnesses that do not affect the lungs. (11-1-86)

05. Recertification. The Department will continue to pay for existing oxygen services according to the following guidelines: (1-1-98)T

a. Recertification is required at least every twelve (12) months. If the physician's initial estimate of length of need is less than one (1) year, then recertification is required after the initial certification based on the physician's order. (1-1-98)T

b. An annual recertification for oxygen is not required once it has been established that in chronic cases the duration of use is lifetime. The physician's order must indicate the length of need is lifetime to meet this requirement. However, recertification is required if there is a change in the flow rate that increases the amount of oxygen that may be billed. Documentation of a decrease in blood gas levels or atrial oxygen saturation by oximetry must be attached to the claim; (1-1-98)T

c. If recertification is required, laboratory requirement in Subsection 107.02 must be met. (1-1-98)T

d. The Department may require subsequent recertification in individual cases. (7-1-97)

06. Cost Considerations. The Department will work with the physician, provider, and recipient to provide payment for the most cost-effective oxygen system that will meet the recipient's needs. (11-1-86)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**

**DOCKET NO. 16-0309-9801**

**NOTICE OF TEMPORARY RULES**

**EFFECTIVE DATE:** These temporary rules are effective January 1, 1998.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

**DESCRIPTIVE SUMMARY:** The Department has been petitioned to add Licensed Professional Counselors-Private Practice (LPC-P) to the list of Medicaid providers of Psychotherapy services. In addition, the provider qualification sections of the mental health clinic rules have not been updated since 11/20/81 or before and do not reflect current practitioner licensing practice for either government or private sector therapists. This could also affect mental health rehabilitation providers and mental health case managers.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code, and are necessary in order to confer a benefit.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rules, contact Lloyd Forbes at (208) 334-5795.

DATED this 4th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
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**TEXT OF DOCKET NO. 16-0309-9801**

**112. REHABILITATIVE SERVICES - - MENTAL HEALTH.**

Pursuant to 42 CFR 440.130(d), the Department shall purchase rehabilitative services for maximum reduction of mental disability and restoration of the recipient to the best possible functional level. Services shall be provided through the State Mental Health Authority in each region, hereafter referred to as the Community Support Program (CSP), in accordance with Title 39, Chapter 31, Idaho Code, Regional Mental Health Services. Each region shall deliver a range of Community Support Program (CSP) services in their communities including treatment, rehabilitation and supportive services. (7-1-94)

01. Responsibilities of Regions. Each region shall enter into a provider agreement with the Division of Medicaid for CSP services and shall be responsible for the following: (7-1-94)

a. Develop, maintain and coordinate a region-wide, comprehensive and integrated service system of department and other providers. (7-1-94)

b. Provide CSP services directly, or through contracts with other providers. (7-1-94)

c. Assure provision of CSP services to recipients on a twenty-four (24) hour basis. (7-1-94)

d. Assure completion of an intake assessment and service plan for each recipient. (7-1-94)

- e. Provide service authorizations and functions required to administer this section. (7-1-94)
- f. Monitor the quality of services provided in this section in coordination with the Divisions of ~~Welfare~~ Medicaid and Family and Community Services. ~~(7-1-94)~~(1-1-98)T
02. Service Descriptions. A CSP shall consist of the following services: (7-1-94)
- a. A comprehensive assessment shall be completed for each recipient of CSP services which addresses the recipient's assets, deficits and needs directed towards formulation of a written diagnosis and treatment plan. Assessment is an interactive process with the maximum feasible involvement of the recipient. The assessment, with supplemental psychiatric, psychological, or specialty evaluations and tests, must be in written form, dated and signed. They must be retained in the recipient's file for documentation purposes. Should the assessment reveal that the person does not need rehabilitative services, appropriate referrals shall be made to meet other needs of the recipient. The assessment is reimbursable if conducted by a qualified provider, in accordance with Subsections 112.04.a. through 112.04.f. All the following areas must be evaluated and addressed: (7-1-94)
- i. Psychiatric history and current mental status which includes at a minimum, age at onset, childhood history of physical or sexual abuse, number of hospitalizations, precursors of hospitalizations, symptoms of decompensation that the recipient manifests, the recipient's ability to identify his symptoms, medication history, substance abuse history, history of mental illness in the family, current mental status observation, any other information that contributes to the recipient's current psychiatric status; and (7-1-94)
- ii. Medical history and current medical status which includes at a minimum, history of any major non-psychiatric illnesses, surgeries, hospitalizations, dates of last physical, dental, or eye examinations, pertinent family history of medical illness, current health problems/needs, current medications, name of current physician; and (7-1-94)
- iii. Vocational/Educational status which includes at a minimum, current and past job status, level of satisfaction with the vocation, educational level, military status, strengths and barriers to employment; and (7-1-94)
- iv. Financial status which includes at a minimum, adequacy and stability of the recipient's financial status, difficulties the recipient perceives with it, resources available, recipient's ability to manage personal finances; and (7-1-94)
- v. Social relationships/support which includes, at a minimum, recipient's ability to establish/maintain personal support systems or relationships and recipient's ability to acquire leisure, recreational, or social interests; and (7-1-94)
- vi. Family status which includes, at a minimum, the recipient's ability or desire to carry out family roles, recipient's perception of the support he receives from his family, and the role the family plays in the recipient's mental illness; and (7-1-94)
- vii. Basic living skills which includes at a minimum, recipient's ability to meet basic living needs, what the recipient wants to accomplish in this area; and (7-1-94)
- viii. Housing which includes at a minimum, current living situation and level of satisfaction with the arrangement, present situation as appropriate to the recipient's needs; and (7-1-94)
- ix. Community/Legal status which includes at a minimum, legal history with law enforcement, transportation needs, supports the recipient has in the community, daily living skills necessary for community living. (7-1-94)
- b. A written service plan shall be developed and implemented for each recipient of CSP services as a vehicle to address the rehabilitative needs of the recipient. To the maximum extent possible, the development of a service plan shall be a collaborative process involving the recipient, his family and other support systems. The written service plan shall be developed within thirty (30) calendar days from the date the recipient chooses the agency as his provider. Case planning is reimbursable if conducted by a qualified provider, in accordance with Subsection 112.04.a.



- through 112.04.f. The case plan must include, at a minimum: (7-1-94)
- i. A list of focus problems identified during the assessment; and (7-1-94)
  - ii. Concrete, measurable goals to be achieved, including time frames for achievement; and (7-1-94)
  - iii. Specific objectives directed toward the achievement of each one of the goals; and (7-1-94)
  - iv. Documentation of participants in the service planning; the recipient, if possible, must be a participant. The recipient or the recipient's legal guardian must sign the service plan or documentation must be provided why this was not possible. A copy of the plan must be given to the recipient; and (7-1-94)
  - v. Reference to any formal services arranged, including specific providers where applicable; and (7-1-94)
  - vi. Planned frequency of services initiated. (7-1-94)
- c. Individual, group and family psychotherapy shall be provided in accordance with the objectives specified in the written service plan. (7-1-94)
- i. These services are reimbursable if provided by a qualified professional, ~~including a psychiatrist, physician, registered nurse, psychologist, clinician, or social worker~~ in accordance with Subsections 112.04.a. through 112.04.e.g. (7-1-94)(1-1-98)T
  - ii. Family psychotherapy must include the recipient and at least one (1) family member at any given time and must be delivered in accordance with objectives as specified in the written service plan. (7-1-94)
- d. Pharmacologic management services shall be provided in accordance with the service plan. (7-1-94)
- i. Medication prescription must be done by a licensed physician or licensed nurse practitioner in direct contact with the recipient. (7-1-94)
  - ii. Licensed and qualified nursing personnel can supervise, monitor, or administer medications within the limits of the Nurse Practice Act, Section 54-1402 (d), Idaho Code. (7-1-94)
  - iii. Other CSP providers, included in Subsection 112.04, may assist in "self" administration by verbal prompts. (7-1-94)
- e. Individual Psychosocial Rehabilitation shall be provided in accordance with the objectives specified in the service plan. The service plan goal is to aid recipients in work, school or other problems related to their mental illness, in obtaining skills to live independently or in preventing movement to a more restrictive living situation. Individual psychosocial rehabilitation is reimbursable if provided by personnel of the region or an agency contracting with the region for CSP services and if the employee is a qualified provider, in accordance with Subsection 112.04. This service includes one (1) or more of the following: (7-1-94)
- i. Assistance in gaining and utilizing skills necessary to undertake school or employment. This includes helping the recipient learn personal hygiene and grooming, securing appropriate clothing, time management and other skills related to recipient's psychosocial condition. (7-1-94)
  - ii. Ongoing, on-site assessment/evaluation/feedback sessions to identify symptoms or behaviors and to develop interventions with the recipient and employer or teacher. (7-1-94)
  - iii. Individual interventions in social skill training to improve communication skills and facilitate appropriate interpersonal behavior. (7-1-94)
  - iv. Problem solving, support, and supervision related to activities of daily living to assist recipients to

gain and utilize skills including, but not limited to, personal hygiene, household tasks, transportation utilization, and money management. (7-1-94)

v. To assist the acquisition of necessary services when recipients are unable to obtain them by escorting them to Medicaid reimbursable appointments. (7-1-94)

vi. Medication education may be provided by a licensed physician or licensed nurse focusing on educating the recipient about the role and effects of medications in treating symptoms of mental illness. (2-6-95)

f. Group psychosocial rehabilitation shall be provided in accordance with the objectives specified in the service plan. This is a service to two or more individuals, at least one of whom is a recipient. The service plan goal is to aid recipients in work, school or other problems related to their mental illness, in obtaining skills to live independently or in preventing movement to a more restrictive living situation. Group psychosocial rehabilitation is reimbursable if provided by personnel of the region or an agency contracting with the region for CSP services and if the employee is a qualified provider, in accordance with Subsection 112.04. This service includes one (1) or more of the following: (7-1-94)

i. Medication education groups provided by a licensed physician or licensed nurse focusing on educating recipients about the role and effects of medications in treating symptoms of mental illness. These groups must not be used solely for the purpose of group prescription writing. (7-1-94)

ii. Employment or school related groups to focus on symptom management on the job or in school, anxiety reduction, and education about appropriate job or school related behaviors. (7-1-94)

iii. Groups in communication and interpersonal skills, the goals of which are to improve communication skill and facilitate appropriate interpersonal behavior. (7-1-94)

iv. Symptom management groups to identify symptoms of mental illnesses which are barriers to successful community integration, crisis prevention, identification and resolution, coping skills, developing support systems and planning interventions with teachers, employers, family members and other support persons. (7-1-94)

v. Groups on activities of daily living which help recipients learn skills related to, but not limited to, personal hygiene and grooming, household tasks, transportation utilization and money management. (7-1-94)

g. Community crisis support which includes intervention for recipients in crisis situations to ensure the health and safety or to prevent hospitalization or incarceration of a recipient. (7-1-94)

i. A crisis may be precipitated by loss of housing, employment or reduction of income, risk of incarceration, risk of physical harm, family altercation or other emergencies. (7-1-94)

ii. Community crisis support may be provided prior to or after the completion of the assessment and service plan. Service is reimbursable if there is documentation that supports the need for the service, even if it is not in the service plan. (7-1-94)

iii. Community crisis support is reimbursable if provided by personnel of the region or an agency contracting with the region for CSP services and if the employee is a qualified provider, in accordance with Subsection 112.04. (7-1-94)

03. Excluded Services. (7-1-94)

a. Treatment services rendered to recipients residing in inpatient medical facilities including nursing homes or hospitals. (7-1-94)

b. Recreational therapy which includes activities which are primarily social or recreational in nature. (7-1-94)

c. Job-specific interventions, job training and job placement services which includes helping the

- recipient develop a resume, applying for a job, and job training or coaching. (7-1-94)
- d. Staff performance of household tasks and chores. (7-1-94)
  - e. Targeted Case Management as provided under the state plan. (7-1-94)
  - f. Any other services not listed in Subsection 112.02. (7-1-94)
04. Community Support Program Provider Staff Qualifications. All individual providers must be employees of the State Mental Health Authority in each region or employees of an agency contracting with the Department to provide Community Support services. The employing entity shall supervise individual CSP providers and assure that the following qualifications are met for each individual provider: (7-1-94)
- a. A physician or psychiatrist shall be licensed in accordance with Title 54, Chapter 18, Idaho Code, to practice medicine; ~~(7-1-94)~~(1-1-98)T
  - b. A certified psychiatric nurse shall be licensed in accordance with Title 54, Chapter 14, Idaho Code, and be certified by a recognized national certification organization; ~~(7-1-94)~~(1-1-98)T
  - c. A psychologist shall be licensed in accordance with Title 54, Chapter 23, Idaho Code; (7-1-94)
  - d. A psychologist extender who is registered with the Bureau of Occupational Licenses; (1-1-98)T
  - e. A clinician shall be employed by a state agency and meet the minimum standards established by the Idaho Personnel Commission. (7-1-94)
  - f. A Licensed Professional Counselor - Private Practice Licensure who is licensed in accordance with Section 54-3404.10, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Counselor Licensing Board", Section 225; (1-1-98)T
  - g. A certified social worker or Certified Social Worker, Private/Independent Practice, shall hold a license in accordance with Title 54, Chapter 32, Idaho Code; ~~(7-1-94)~~(1-1-98)T
  - h. A social worker shall hold a license in accordance with Title 54, Chapter 32, Idaho Code; (1-1-98)T
  - i. A registered nurse, R.N., shall be licensed in accordance with Title 54, Chapter 23, Idaho Code. (1-1-98)T
  - fi. A psychosocial rehabilitation specialist shall hold a bachelor's degree in a behavioral science such as social work, psychology, marriage and family counseling, psychosocial rehabilitation, or a closely related field; (7-1-94)
  - gk. An occupational therapist shall be licensed in accordance with Chapter 54, Idaho Code. (7-1-94)
05. Record Requirements. In addition to the development and maintenance of the treatment plan, the following documentation must be maintained by the provider: (7-1-94)
- a. Name of recipient; and (7-1-94)
  - b. Name of the provider agency and person providing the service; and (7-1-94)
  - c. Date, time, and duration of service; and (7-1-94)
  - d. Activity record describing the recipient and the service provided; and (7-1-94)
  - e. Documented review of progress toward each service plan goal and assessment of recipient's need

for services at least every one hundred twenty (120) days. (2-6-95)

06. Payment for Services. Payment for CSP services must be in accordance with rates established by the Department. (7-1-94)

a. Payment for services shall not duplicate payment made to public or private entities under other program authorities for the same purpose. (7-1-94)

b. Only one (1) staff member may bill for an assessment, treatment plan, or case review when multiple CSP staff are present. (7-1-94)

c. Medication prescription and administration may be billed only by physicians and other medical staff qualified under Idaho Code. CSP staff shall not be paid for other medical procedures. For example, changing dressings on a wound. (7-1-94)

d. Billing for services and receiving reimbursement for services that were not rendered or failure to comply with these rules shall be cause for recoupment of payments for services, sanctions, or both. (7-1-94)

e. The provider shall provide the Department with access to all information required to review compliance with these rules. (7-1-94)

f. Psychiatric or psychological evaluations and tests may be provided as a reimbursable service in conjunction with the assessment. (7-1-94)

g. Psychological evaluations are reimbursable if provided by a qualified clinician or psychology extender, in accordance with Subsection 112.04.d., under the direction of a psychologist, Ph.D. ~~(7-1-94)~~(1-1-98)T

h. Evaluations performed by qualified registered occupational therapists, O.T.R., performed in conjunction with development of a service plan are reimbursable. (7-1-94)

07. Service Limitations. The following service limitations shall apply to CSP services, unless otherwise authorized by the State Mental Health Authority in each region. (7-1-94)

a. A combination of any evaluation or diagnostic services are limited to a maximum of six (6) hours annually. (7-1-94)

b. Individual, family and group psychotherapy services are limited to a maximum of twenty-four (24) hours annually. (7-1-94)

c. Community crisis support services are limited to a maximum of four (4) hours per day during a period of five (5) consecutive days and must receive prior authorization from the State Mental Health Authority in each region. (7-1-94)

d. Individual and group psychosocial rehabilitation services are limited to twenty (20) hours per week and must receive prior authorization from the State Mental Health Authority in each region. Services in excess of twenty (20) hours require additional review and prior authorization by the State Mental Health Authority in each region. (7-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**115. CLINIC SERVICES -- MENTAL HEALTH CLINICS.**

Pursuant to 42 CFR 440.90, the Department will pay for preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services provided by a mental health clinic to a recipient who is not an inpatient in a hospital or nursing home except as specified under Subsection 115.05.d. The mental health clinic must be approved by the

- Department and be under the direction of a licensed physician. (12-31-91)
01. Care and Services Provided. (12-31-91)
- a. Services must be provided specifically in conjunction with a medically ordered plan of care when delivered by licensed, qualified professionals employed full or part-time within a clinic. (11-10-81)
- b. All treatment must be based on an individualized assessment of the patient's needs, and provided under the direct supervision of a licensed physician. (11-10-81)
- c. All medical care plans must: (11-10-81)
- i. Be dated and fully signed with title identification by both the prime therapist(s) and licensed physician; and (11-10-81)
- ii. Contain the diagnosis, problem list, type, frequency, and duration of treatment; and (11-10-81)
- iii. Be reviewed and authorized and signed within thirty (30) days of implementation; and (11-10-81)
- iv. Be reviewed within one hundred twenty (120) days and every one hundred twenty (120) days thereafter; and (11-10-81)
- v. Be completely rewritten and authorized annually. (11-10-81)
- d. Licensed, qualified professionals providing clinic services to eligible MA recipients must have, at a minimum, one (1) or more of the following ~~degrees~~ qualifications: (~~11-10-81~~)(1-1-98)T
- i. Psychiatrist, M.D.; or (11-10-81)
- ii. Physician, M.D.; or (11-10-81)
- iii. Licensed Psychologist, ~~Ph.D., Ed.D., M.A./M.S.~~; or (~~11-10-81~~)(1-1-98)T
- iv. Psychologist extender, registered with the Bureau of Occupational Licenses; or (1-1-98)T
- ~~iv.~~ Licensed Certified Social Workers, or Licensed Certified Social Workers, Private/Independent Practice; or (~~11-10-81~~)(1-1-98)T
- vi. Licensed Social Workers; or (1-1-98)T
- ~~vii.~~ Certified Psychiatric Nurse, R.N., as described in Subsection 112.04.b.; or (~~11-10-81~~)(1-1-98)T
- viii. Licensed Professional Counselor - Private Practice Licensure (LPC-P); or (1-1-98)T
- ~~vix.~~ Mental Health Rehabilitation Specialist, Registered Occupational Therapist, O.T.R.; or (~~11-10-81~~)(1-1-98)T
- x. Licensed Registered Nurse, R.N. (1-1-98)T
02. Care and Services Not Covered. (11-10-81)
- a. The MA Program will not pay for clinic services rendered to MA recipients residing in in-patient medical facilities including, but not limited to, nursing homes or hospitals; or (11-10-81)
- b. Any service or supplies not included as part of the allowable scope of the MA Program; or (11-10-81)

- c. Services provided within the clinic framework by persons other than those qualified to render services as specified in Section 115. (12-31-91)
03. Evaluation and Diagnostic Services. (11-10-81)
- a. Medical psychosocial intake histories must be contained in all case files. (11-10-81)
- b. Information gathered will be used for establishing a recipient data base used in part to formulate the diagnosis and treatment plan. (11-10-81)
- c. The medical psychosocial intake is reimbursable if conducted by a primary therapist who, at a minimum, has one (1) or more of the following ~~degrees~~ qualifications: (~~11-10-81~~)(1-1-98)T
- i. Licensed Psychologist, Ph.D., Ed.D., M.A./M.S.; or (~~11-10-81~~)(1-1-98)T
- ii. Psychologist extender, registered with the Bureau of Occupational Licenses; or (1-1-98)T
- iii. Licensed Certified Social Worker, or Licensed Certified Social Worker, Private/Independent Practice; or (~~11-10-81~~)(1-1-98)T
- iv. Certified Psychiatric Nurse, R.N.; or (~~11-10-81~~)(1-1-98)T
- v. Licensed Professional Counselor - Private Practice Licensure (LPC-P); or (1-1-98)T
- vi. Licensed Physician, M.D., or Psychiatrist, M.D. (~~11-10-81~~)(1-1-98)T
- d. If an individual who is not eligible for MA receives intake services from any staff not having the required degree(s) as provided in Subsection 115.03.c., and later becomes eligible for MA, a new intake assessment and treatment plan will be required which must be developed by a qualified staff person and authorized prior to any reimbursement. (12-31-91)
- e. Any provider of evaluation, diagnostic service, or treatment designed by any person other than a person designated as qualified by these rules, is not eligible for reimbursement under the MA Program. (11-10-81)
- f. Psychiatric or psychological testing may be provided in conjunction with the medical psychosocial intake history as a reimbursable service. (11-10-81)
- g. Evaluations performed by qualified registered occupational therapists, O.T.R., performed in conjunction with the development of a medical care treatment plan are reimbursable. (11-10-81)
- h. All intake histories, psychiatric evaluations, psychological testing, or specialty evaluations must be in written form, dated, and fully signed to certify when completed and by whom, and retained in the recipient's file for documentation purposes. (11-10-81)
- i. All data gathered must be directed towards formulation of a written diagnosis, problem list, and treatment plan which specifies the type, frequency, and anticipated duration of treatment. (11-10-81)
- j. A total of twelve (12) hours is the maximum time allowed for a combination of any evaluative or diagnostic services provided to an eligible recipient in a calendar year. A calendar year begins on the first date of service provided to an eligible recipient. (11-10-81)
04. Treatment Services. (11-10-81)
- a. Individual and group psychotherapy must be provided in accordance with the goals specified in the written medical treatment plan. (11-10-81)
- b. Family-centered psychosocial services must include at least two (2) family members and must be

delivered in accordance with the goals of treatment as specified in the medical treatment plan. (11-10-81)

c. Individual emergency psychotherapy services can be provided by qualified clinic staff at any time. (11-10-81)

i. Emergency services provided to an eligible recipient prior to intake and evaluation is a reimbursable service but must be fully documented in the recipient's record; and (11-10-81)

ii. Each emergency service will be counted as a unit of service and part of the allowable limit per recipient unless the contact results in hospitalization. (11-10-81)

d. Psychotherapy services may be provided to recipients residing in a nursing facility if the following criteria are met: (11-29-91)

i. The recipient has been identified through the PASARR Level II screening process as requiring psychotherapy as a specialized service; and (11-29-91)

ii. The service is provided outside the nursing facility at a clinic location or other location where clinic staff is available; and (11-29-91)

iii. Services provided are: (11-29-91)

and (1) Supported by the independent evaluations completed and approved by the Mental Health Authority; (11-29-91)

(2) Incorporated into the recipient's medical care plan; and (11-29-91)

(3) Directed toward the achievement of specific measurable objectives which include target dates for completion. (11-29-91)

e. Licensed, qualified professionals providing psychotherapy services as set forth in Subsections 115.04.a. through 115.04.d. must have, at a minimum, one (1) or more of the following degrees: (11-29-91)

i. Psychiatrist, M.D.; or (11-29-91)

ii. Physician, M.D.; or (11-10-81)

iii. Licensed Psychologist, Ph.D., Ed.D., M.A./M.S.; or (~~11-10-81~~)(1-1-98)T

iv. Psychologist extender, registered with the Bureau of Occupational Licenses; or (1-1-98)T

~~v.~~ Licensed Certified Social Workers; or Licensed Certified Social Workers - Private Practice; or (~~11-10-81~~)(1-1-98)T

vi. Licensed Professional Counselor - Private Practice Licensure; or (1-1-98)T

~~vii.~~ Certified Psychiatric Nurse, R.N. (~~11-10-81~~)(1-1-98)T

f. Psychotherapy services as set forth in Subsections 115.04.a. through 115.04.c. are limited to forty-five (45) hours per calendar year. (12-31-91)

g. Chemotherapy consultations must be provided by a physician or licensed nurse practitioner in direct contact with the recipient. (11-10-81)

i. Consultation must be for the purpose of prescribing, monitoring, and/or administering medication as part of the treatment plan; and (11-10-81)

- ii. Chemotherapy treatment can be part of the medical care plan and frequency and duration of the treatment must be specified. (11-10-81)
  - h. Nursing services, when physician ordered and supervised, can be part of the recipient's medical care plan. (11-10-81)
  - i. Licensed and qualified nursing personnel can supervise, monitor, and/or administer medication within the limits of the Nurse Practice Act, Section 54-1402(d), Idaho Code; and (11-10-81)
  - ii. Such treatment can be part of the recipient's medical care plan and frequency and duration of the treatment must be specified. (11-10-81)
  - i. Partial care services will be directed toward the maintenance of socio-emotional levels, reduction of psychosocial dysfunctioning, and the promotion of psychosocial levels of functioning. (11-10-81)
  - i. To qualify as a partial care service, the service must be offered a minimum of three (3) continuous hours daily, four (4) days per week; and (11-10-81)
  - ii. Treatment will be limited to fifty-six (56) hours per week per eligible recipient; and (7-8-90)
  - iii. Partial care services offered on an extension basis less than this standard are allowable when such services are directly affiliated with a partial care service that meets this standard; and (11-10-81)
  - iv. Partial care services will be part of the recipient's medical care plan which must specify the amount, frequency, and expected duration of treatment; and (11-10-81)
  - v. Licensed, qualified professionals providing partial care services must have, at a minimum, one (1) or more of the following degrees: qualifications listed in Subsection 115.01.d. (~~11-10-81~~)(1-1-98)T
- (1) ~~Psychiatrist, M.D.; or~~ (11-10-81)
  - (2) ~~Physician, M.D.; or~~ (11-10-81)
  - (3) ~~Psychologist, Ph.D., Ed.D., M.A./M.S.; or~~ (11-10-81)
  - (4) ~~Licensed Certified Social Worker, Licensed Social Worker; or~~ (11-10-81)
  - (5) ~~Registered Nurse, R.N.; or~~ (11-10-81)
  - (6) ~~Registered Occupational Therapist.~~ (11-10-81)
05. Record Keeping Requirements. (11-10-81)
- a. Each clinic will be required to maintain records on all services provided to MA recipients. (11-10-81)
  - b. The records must contain a current treatment plan ordered by a physician and must meet the requirements as set forth in Subsection 115.01.c. (12-31-91)
  - c. The records must: (11-10-81)
    - i. Specify the exact type of treatment provided; and (11-10-81)
    - ii. Who the treatment was provided by; and (11-10-81)
    - iii. Specify the duration of the treatment; and (11-10-81)



- iv. Contain detailed records which outline exactly what occurred during the therapy session or recipient contact; and (11-10-81)
- v. Contain the legible, dated signature, with degree credentials listed, of the staff member performing the service. (11-10-81)
- d. Any service not adequately documented in the recipient's record by the signature of the therapist providing the therapy or recipient contact, the length of the therapy session, and the date of the contact, will not be reimbursed by the Department. (11-10-81)
- e. Any treatment or contact provided as a result of a treatment plan performed by any staff other than as set forth herein will not be eligible for reimbursement by the Department. (11-10-81)
- f. If a record is determined not to meet minimum requirements as set forth herein any payments made on behalf of the recipient are subject to recoupment. (11-10-81)
- 06. Payment Procedures. (11-10-81)
  - a. Payment for clinic services will be made directly to the clinic and will be in accordance with rates established by the Department for the specific services. (11-10-81)
  - b. Each provider of clinic services must accept the Department's payment for such services as payment in full and must not bill the MA recipient for any portion of any charges incurred for the cost of his care. (11-10-81)
  - c. All available third party payment resources, such as Medicare and private insurance, must be exhausted before the Department is billed for services provided to an eligible recipient. Proof of billing other third party payors will be required by the Department. (11-10-81)
  - d. Payment for the administration of injections must be in accordance with rates established by the Department. (11-10-81)

**116. TARGETED CASE MANAGEMENT FOR THE MENTALLY ILL.**

The Department will purchase case management (CM) services for adult Medicaid recipients with severe disabling mental illness. Services will be provided by an organized provider agency which has entered into a provider agreement with the Department. The purpose of these services is to assist eligible individuals to gain access to needed medical, social, educational, mental health and other services. (8-1-92)

- 01. Eligible Target Group. Only those individuals who are mentally ill and eighteen (18) years of age or older who are at risk of using high cost medical services associated with frequent exacerbations of mental illness are eligible for CM services. (8-1-92)
  - a. The following diagnostic and functional criteria will be applied to determine membership in this target population: (8-1-92)
    - i. Diagnosis: A condition of severe and persistent mental illness and a diagnosis listed in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders (DSM-III-R) within one (1) of the following classification codes for: (8-1-92)
      - (1) Schizophrenia - 295.1,.2,.3,.6 and.9; (8-1-92)
      - (2) Organic mental disorders associated with Axis III physical disorders or conditions, or whose etiology is unknown - 293.00, 293.81, 293.82, 293.83, 294.00, 294.10, 294.80, 310.10; (8-1-92)
      - (3) Affective disorders - 296.2, 296.3, 296.4, 296.5, 296.6, 296.7, 300.4, 301.13, 311.0; (8-1-92)
      - (4) Delusional disorder - 297.1; (8-1-92)

- (5) Other psychotic disorders - 295.4, 295.7, 297.3, 298.8 and 298.9; (8-1-92)
- (6) Personality disorders - 301.00, 301.22, 301.83. (8-1-92)
- (7) If the only diagnosis is one (1) or more of the following, the person is not included in the target population for CM services: (8-1-92)
- (a) Mental retardation; or (8-1-92)
- (b) Alcoholism; or (8-1-92)
- (c) Drug abuse. (8-1-92)
- ii. Functional limitations: The psychiatric disorder must be of sufficient severity to cause a disturbance in the role performance or coping skills in at least two (2) of the following areas, on either a continuous (more than once per year) or an intermittent (at least once per year) basis: (8-1-92)
- (1) Vocational or academic: Is unemployed, unable to work or attend school, is employed in a sheltered setting or supportive work situation, or has markedly limited skills and a poor work history. (8-1-92)
- (2) Financial: Requires public financial assistance for out-of-hospital maintenance and may be unable to procure such assistance without help, or the person is unable to support him or manage his finances without assistance. (8-1-92)
- (3) Social/interpersonal: Has difficulty in establishing or maintaining a personal social support system, has become isolated, has no friends or peer group and may have lost or failed to acquire the capacity to pursue recreational or social interests. (8-1-92)
- (4) Family: Is unable to carry out usual roles and functions in a family, such as spouse, parent, or child, or faces gross familial disruption or imminent exclusion from the family. (8-1-92)
- (5) Basic living skills: Requires help in basic living skills, such as hygiene, food preparation, or other activities of daily living, or is gravely disabled and unable to meet daily living requirements. (8-1-92)
- (6) Housing: Has lost or is at risk of losing his current residence. (8-1-92)
- (7) Community: Exhibits inappropriate social behavior or otherwise causes a public disturbance due to poor judgment, bizarre, or intrusive behavior which results in intervention by law enforcement and/or the judicial system. (8-1-92)
- (8) Health: Requires assistance in maintaining physical health or in adhering to medically prescribed treatment regimens. (8-1-92)
- b. Recipients may reside in adult foster care, residential care, semi-independent living, room and board or their own homes. (8-1-92)
- c. Recipients may be receiving homemaker, personal care, home health, respite or other services. (8-1-92)
- d. Recipients who elect hospice services as found in Section 104, or are receiving case management services through another program are excluded from CM services. (8-1-92)
02. Services Descriptions. CM services shall be delivered by eligible providers to assist the Medicaid recipient to obtain and coordinate needed health, educational, vocational and social services in the least restrictive, most appropriate and most cost-effective setting. CM services shall consist of the following core functions: (8-1-92)

a. Assessment: A CM provider must have the capacity to perform written comprehensive assessments of a person's assets, deficits and needs. Assessment is an interactive process with the maximum feasible involvement of the recipient. Should the assessments reveal that the person does not need CM services, appropriate referrals will be made to meet other needs of the participant. All the following areas must be evaluated and addressed: (8-1-92)

i. Psychiatric history and current mental status: Includes but is not limited to age of onset, childhood history of physical or sexual abuse, number of hospitalizations, precursors of hospitalizations, symptoms of decompensation that the client manifests, is the client able to identify his symptoms, medication history; substance abuse history, history of mental illness in the family, current mental status observation, any other information that contributes to their current psychiatric status; and (10-22-93)

ii. Medical history and current medical status: Includes but is not limited to history of any major non-psychiatric illnesses, surgeries, hospitalizations, dates of last physical, dental, or eye examinations, pertinent family history of medical illness, current health problems/needs, current medications; name of current physician; and (10-22-93)

iii. Vocational status: Includes but is not limited to current and past job status, level of satisfaction with the vocation, educational level, military status, strengths and barriers to employment; and (10-22-93)

iv. Financial status: Includes but is not limited to adequacy and stability of the client's financial status, what difficulties they perceive with it, what resources may be available, client's ability to manage personal finances; and (10-22-93)

v. Social relationships/support: Includes but is not limited to client's ability to establish/maintain personal support systems or relationships, client's ability to acquire leisure, recreational, or social interests; and (10-22-93)

vi. Family status: Includes but is not limited to: client's ability or desire to carry out family roles, client's perception of the support he receives from their family, what role does the family play in the client's mental illness; and (10-22-93)

vii. Basic living skills: Includes but is not limited to client's ability to meet their basic living needs, what does the client want to accomplish in this area; and (10-22-93)

viii. Housing: Includes but is not limited to: current living situation and level of satisfaction with the arrangement, is present situation appropriate to the client's needs; and (8-1-92)

ix. Community/Legal status: Includes but is not limited to legal history with law enforcement, transportation needs, supports the client has in the community, daily living skills necessary for community living. (8-1-92)

b. Service Plan Development and Implementation. Following the assessment(s) and determination of need for CM, a written service plan shall be developed and implemented as a vehicle to address the case management needs of the recipient. To the maximum extent possible, the development of a service plan shall be a collaborative process involving the recipient, his family or other support system, and the CM provider. The written service plan shall be developed within thirty (30) calendar days of when the recipient chooses the agency as his provider and must include, at a minimum: (8-1-92)

i. A list of focus problems identified during the assessments; and (8-1-92)

ii. Concrete, measurable goals to be achieved, including time frames for achievement; and (8-1-92)

iii. Specific plans directed toward the achievement of each one of the goals; and (8-1-92)

iv. Documentation of who has been involved in the service planning; the recipient, if possible, must be involved. The recipient or the recipient's legal guardian must sign the service plan or documentation must be provided as to why this was not possible. A copy of the plan must be given to the recipient; and (8-1-92)

- v. Reference to any formal services arranged, including specific providers where applicable; and (8-1-92)
  - vi. Planned frequency of services initiated. (8-1-92)
  - c. Crisis Assistance. Crisis assistance services are those case management activities that are needed in addition to the assessment and ongoing case management hours in emergency situations. These are necessary activities to obtain services needed to ensure the health and/or safety or to prevent hospitalization or incarceration of a recipient. Crisis assistance may be provided prior to or after the completion of the assessments and individual service plan. (8-1-92)
  - d. Linking/Coordination of Services. Through negotiation and referrals, the case manager links the recipient to various providers of services/care and coordinates service delivery. Coordination of service delivery includes activities such as: assuring that needed services have been delivered, consulting with service providers to ascertain whether they are adequate for the needs of the recipient, and consulting with the client to identify the need for changes in a specific service or the need for additional services. The case manager may refer to his own agency for services but may not restrict the recipient's choice of service providers. It may be necessary to mobilize more than one set of resources to make adequate services available. The case manager may be needed to act as an advocate for the recipient. There must be a minimum of one face-to-face contact with the recipient at least every thirty (30) days. (10-22-93)
  - e. The case manager will encourage independence of the recipient by demonstrating to the individual how to best access service delivery systems such as transportation and Meals on Wheels, etc. Such assistance must be directed toward reducing the number of case management hours needed. Such assistance is limited to thirty (30) days per service delivery system. (10-22-93)
03. CM Provider Agency Qualifications. Case management provider agencies must meet the following criteria: (8-1-92)
- a. Utilization of a standardized intake and prescreening process for determining whether or not Medicaid eligible individuals are included in the target group for case management services. Prescreening must be effective in sorting out who does and who does not need a full assessment of needs for CM. (8-1-92)
  - b. Demonstrated capacity in providing all core elements of case management services to the target population including: (8-1-92)
    - i. Comprehensive assessment; and (8-1-92)
    - ii. Comprehensive service plan development and implementation; and (8-1-92)
    - iii. Crisis assistance; and (8-1-92)
    - iv. Linking/coordination of services; and (8-1-92)
    - v. Encouragement of independence. (10-22-93)
  - c. Provides clients of the agency the availability of a case manager on a twenty-four (24) hour basis to assist them in obtaining needed services. (8-1-92)
04. CM Provider Staff Qualifications. All individual CM providers must be employees of an organized provider agency that has a valid CM provider agreement with the Department. The employing entity will supervise individual CM providers and assure that the following qualifications are met for each individual CM provider: (8-1-92)
- a. Must be a Psychiatrist, M.D., D.O.; or physician, M.D., D.O.; or Licensed Psychologist, Ph.D., Ed.D., M.A./M.S.; or Psychologist Extender who is registered with the Bureau of Occupational Licenses; or social

worker with a valid Idaho social work license issued by the Board of Social Work Examiners; or nurse, R.N.; or Licensed Professional Counselor - Private Practice Licensure; or a clinician employed by a state agency and who meets the requirements of the Idaho Personnel Commission; ~~or have an individual having~~ a B.A./B.S. in a human services field and at least one (1) year experience in the psychiatric or mental health field. ~~(8-1-92)~~(1-1-98)T

b. A total caseload per case manager of no more than twenty (20) individuals. The Bureau may grant a waiver of the caseload limit when requested by the agency. The following criteria must be met to justify a waiver: (8-1-92)

i. The availability of case management providers is not sufficient to meet the needs of the service area. (8-1-92)

ii. The recipient that has chosen the particular agency or individual case manager that has reached their limit; and has just cause to need that particular agency or manager over other available agencies/managers. ~~(8-1-92)~~(1-1-98)T

iii. The request for waiver must include: (8-1-92)

(1) The time period for which the waiver is requested; (8-1-92)

(2) The alternative caseload limit requested; (8-1-92)

(3) Assurances that the granting of the waiver would not diminish the effectiveness of the CM agency, violate the purposes of the program, or adversely affect the recipients' health and welfare. (8-1-92)

iv. The Bureau may impose any conditions on the granting of the waiver which it deems necessary. (8-1-92)

v. The Bureau may limit the duration of a waiver. (8-1-92)

05. Recipient's Choice. The eligible recipient will be allowed to choose whether or not he desires to receive CM services. All recipients who choose to receive CM services will have free choice of CM providers as well as the providers of medical and other services under the Medicaid program. (8-1-92)

06. Payment for Services. When an assessment indicates the need for medical, psychiatric, social, educational, or other services, referral or arrangement for such services may be included as CM services, however, the actual provision of the service does not constitute CM. Medicaid will reimburse only for core services (Subsection 116.02) provided to members of the eligible target group by qualified staff. (8-1-92)

a. Payment for CM will not duplicate payment made to public or private entities under other program authorities for the same purpose. (8-1-92)

b. Payment will not be made for CM services provided to individuals who are inpatients in nursing homes or hospitals. (8-1-92)

c. Reimbursement for the initial evaluation and individual service plan development shall be paid based on an hourly rate, not to exceed eight (8) hours. The rate will be established by the Bureau. (8-1-92)

d. Reimbursement for on-going case management services shall be made on an hourly rate for service delivered. The rate will be established by the Bureau. (8-1-92)

e. Medicaid reimbursement shall be provided only for the following case management services: (8-1-92)

i. Face-to-face contact between the case manager and the recipient; (8-1-92)

ii. Telephone contact between the case manager and the recipient, the recipient's mental health and

other service providers, a recipient's family members, primary caregivers, legal representative, or other interested persons; (8-1-92)

iii. Face-to-face contacts between the case manager and the recipient's family members, legal representative, primary caregivers, mental health providers or other service providers, or other interested persons; (8-1-92)

iv. Development, review, and revision of the recipient's individual service plan, including the case manager's functional assessment of the recipient. (8-1-92)

f. The Department will not provide Medicaid reimbursement for on-going case management services delivered prior to the completion of the assessments and individual service plan. (8-1-92)

g. The Department will provide Medicaid reimbursement for crisis assistance provided prior to or after the completion of the assessments and individual service plan. (8-1-92)

h. Audit reviews will be conducted at least once a calendar year by the Bureau. Review findings may be referred to the Department's Surveillance and Utilization Review Section for appropriate action. (7-1-94)

i. Failure to provide services for which reimbursement has been received or to comply with these rules will be cause for recoupment of payments for services, sanctions, or both. (10-22-93)

j. The provider will provide the Department with access to all information required to review compliance with these rules. (10-22-93)

k. The Department will not provide Medicaid reimbursement for case management services provided to a group of recipients. (8-1-92)

l. Medicaid will reimburse for case management services on the same date a recipient is admitted or discharged from a hospital, nursing facility, or other institutional setting, as long as the recipient is not yet admitted or has been discharged at the time of service delivery. (8-1-92)

i. Services may be provided during the last thirty (30) days of inpatient stay or if the inpatient stay is not expected to last longer than thirty (30) days, when not duplicating those included in the responsibilities of the facility. (7-1-94)

07. Record Requirements. In addition to the development and maintenance of the service plan, the following documentation must be maintained by the provider: (8-1-92)

a. Name of recipient; and (8-1-92)

b. Name of the provider agency and person providing the service; and (8-1-92)

c. Date, time, and duration of service; and (8-1-92)

d. Place of service; and (8-1-92)

e. Activity record describing the recipient and the service provided; and (8-1-92)

f. Documented review of progress toward each CM service plan goal, and assessment of the recipient's need for CM and other services at least every one hundred twenty (120) days; and (8-1-92)

g. Documentation justifying the provision of crisis assistance to the recipient; and (8-1-92)

h. An informed consent form signed by the recipient or legal guardian clearly explaining the purpose of case management. (8-1-92)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT**

**DOCKET NO. 16-0310-9801**

**NOTICE OF TEMPORARY RULES**

**EFFECTIVE DATE:** These temporary rules are effective February 4, 1998.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 56-202(b), 56-203(g) and 56-203(i), Idaho Code.

**DESCRIPTIVE SUMMARY:** Section 701.01 is revised to clarify the limitations that may be imposed to specify the Medicare screening guidelines for FQHC staff productivity.

Section 701.03 is added to specify the Medicare limit on the reimbursable costs per encounter.

References to the performance of interim settlements in section 706.01 are deleted to eliminate the requirement.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect public health, safety and welfare.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rules, contact Beldon Ragsdale at, (208) 334-5795.

DATED this 4th day of January, 1998.

Sherri Kovach  
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DHW - Division of Legal Services  
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**TEXT OF DOCKET NO. 16-0310-9801**

**701. REIMBURSEMENT - GENERAL.**

The aggregate reimbursement for all covered services and supplies provided by an FQHC shall be equal to, no less than, and shall not exceed, one hundred percent (100%) of the reasonable costs related to patient care allowed under 42 CFR 413, and as appropriately clarified by the Secretary of Health and Human Services for Medicare principles of cost reimbursement. ~~(4-1-90)(2-4-98)T~~

01. ~~Screening Guidelines. The Department may establish or adopt screening guidelines to identify costs in situations where costs should not be allowed without reasonable justification by the FQHC to the Department of FQHC Staff Productivity. Payments for FQHC services will be subject to an evaluation of the reasonableness of the FQHC health care staff's productivity level, which will be determined by the following screening guidelines, not to exceed the maximum payment per encounter pursuant to Subsection 701.03. The allowable cost per encounter is calculated as the greater number of the actual total encounters, or the expected total encounters as defined in Subsections 701.01.a. through 701.01.c. below:~~ ~~(4-1-90)(2-4-98)T~~

a. A least four thousand two hundred (4,200) visits per year per full time equivalent physician employed by the FQHC; and (2-4-98)T

b. At least two thousand one hundred (2,100) encounters per year per full time physician assistant or nurse practitioner employed by the FQHC; or (2-4-98)T

c. If staffing levels consist of various combinations of physicians, nurse practitioners, physician assistants, a combined screening approach may be used. For example, if a FQHC has three (3) physicians and one (1) nurse practitioner, calculate the screening guidelines as follows:  $3 \times 4,200 = 12,600$  plus  $1 \times 2,100 = 2,100$  for a total of fourteen thousand seven hundred (14,700) visits. (2-4-98)T

d. If the Medicare Intermediary waives or adjusts the total number of encounters determined under the productivity guidelines for a specific fiscal period, the Department may also waive or adjust the productivity guidelines. (2-4-98)T

e. A full time equivalent for purposes of this Section is two thousand eighty (2,080) hours per year, and/or forty (40) hours per week for fifty-two (52) weeks. (2-4-98)T

02. Offset, Reclassified or Excluded Costs. The costs of the specific following items and services are to be offset, reclassified, or excluded from Medicaid reasonable costs: (4-1-90)

a. Excessive and unreasonable costs which violate the prudent buyer concept are excluded from total costs; and (4-1-90)

b. Medicaid payments for presumptive eligibility screenings provided in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 09, Section 102, "Rules Governing Medical Assistance", shall be offset against the appropriate cost centers at cost settlement; and (12-31-91)

c. Special services related to pregnancy provided in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 09, Section 101, "Rules Governing Medical Assistance", with the exception of nutritional education and dietary monitoring and counseling as authorized in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 09, Subsection 101.06, "Rules Governing Medical Assistance", will be included as encounters in cost report statistics and for cost settlement; (12-31-91)

i. Other ambulatory services not included in the definition of an encounter defined by Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 09, Subsection 144.02, "Rules Governing Medical Assistance", shall be reimbursed at one hundred percent (100%) of reasonable costs; (12-31-91)

ii. EPSDT screenings and the incidental services are a patient encounter. Services and items specifically not included in the Idaho Title XIX state plan but authorized as EPSDT services through Section 6403 of OBRA 1989 may be reimbursed on a fee for service basis or reported as other ambulatory services for cost settlement; (4-1-90)

iii. EPSDT services not outside the scope of Medicaid shall be reimbursed at one hundred percent (100%) of reasonable costs for MA recipients up to and including the month of their twenty first (21st) birthday. Limits upon the number or scope of services for EPSDT recipients are not waived for a FQHC provider. (4-1-90)

03. Maximum Payment Per Encounter. The cost per encounter will not exceed the Medicare payment level. The FQHC reimbursement methodology includes one (1) urban and one (1) rural payment limit that is determined annually for the Medicare program by the Health Care Financing Administration. (2-4-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**706. COST SETTLEMENTS.**

The Department shall issue ~~interim and~~ final cost settlements based on the Medicaid cost report issued by the Department. (4-1-90)



01. ~~Unaudited Cost Report. Within sixty (60) days of receipt of a FQHC provider's unaudited cost report, the Department shall review the cost report submitted, notwithstanding any appropriate adjustments the Department may make, in order to issue a tentative settlement to reimburse the FQHC for any underpayment of recover any overpayment for the fiscal period to be settled.~~ (4-1-90)

02. ~~Audited Cost Report. Within thirty (30) days after each provider's audited cost report is finalized by the Department's agent, the Department shall reimburse a FQHC for any underpayments or recover any overpayments made for the fiscal period represented in the audited report.~~ (4-1-90)(2-4-98)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.04.14 - RULES GOVERNING LOW INCOME HOME ENERGY ASSISTANCE PROGRAM**

**DOCKET NO. 16-0414-9702**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202 and 56-203, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 5, 1997 Administrative Bulletin, Volume 97-11, page 78.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5819.

DATED this 4th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16**  
**TITLE 04**  
**Chapter 14**

**RULES GOVERNING LOW INCOME HOME ENERGY ASSISTANCE PROGRAM**

**There are no substantive changes  
from the proposed rule text.**

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, November 5, 1997, page 78.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1999 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.04.14 - RULES GOVERNING LOW INCOME HOME ENERGY ASSISTANCE PROGRAM**

**DOCKET NO. 16-0414-9703**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202 and 56-203, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 5, 1997 Administrative Bulletin, Volume 97-11, pages 79 through 86.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell, at (208) 334-5819.

DATED this 4th day of January, 1998.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16**  
**TITLE 04**  
**Chapter 14**

**RULES GOVERNING LOW INCOME HOME ENERGY ASSISTANCE PROGRAM**

**There are no substantive changes  
from the proposed rule text.**

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-10, November 5, 1997,  
pages 79 through 86.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1999 Idaho State Legislature for final adoption.**

**IDAPA 35 - STATE TAX COMMISSION**  
**35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES**  
**DOCKET NO. 35-0201-9702**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections, 63-105 and 63- 3045, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for any change. The pending rule is being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-12, pages 207 and 208.

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

The State Tax Commission is required to publish the annual interest rate change based on the applicable midterm federal rate as it applies on October 15th of each year.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Janice Boyd, (208) 334-7530.

DATED this 24th day of December, 1997.

Janice Boyd, Tax Policy Specialist  
State Tax Commission  
800 Park Blvd. Plaza IV  
P. O. Box 36, Boise, ID 83722  
(208) 334-7530, FAX (208) 334-7844

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**IDAPA 35**  
**TITLE 02**  
**Chapter 01**

**ADMINISTRATION AND ENFORCEMENT RULES**

**There are no substantive changes  
from the proposed rule text.**

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-12, December 3, 1997,  
pages 207 and 208.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1999 Idaho State Legislature for final adoption.**

**IDAPA 38 - DEPARTMENT OF ADMINISTRATION**  
**38.04.04 - RULES GOVERNING CAPITOL MAILL PARKING**  
**DOCKET NO. 38-0404-9702**

**NOTICE OF CORRECTION TO PENDING RULE**

**CORRECTION:** The following notice and text are being reprinted due to a transcription error made during the publishing of the rule by the Office of Administrative Rules. The error was made in the Section 003, Administrative Appeals, and is being corrected in this Bulletin. The text is being reprinted as it should read and as it was adopted by the Department. The original notice and text of the proposed rule published in the October 4, 1997, Administrative Bulletin, Volume 97-10, pages 361 through 366.

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 1998 Idaho State Legislature for final approval. The pending rule will become final and effective July 1, 1998 after the adjournment of the First Regular Session of the Fifty-fourth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5228, Idaho Code, notice is hereby given that this agency and the Office of the Administrative Rules Coordinator have corrected a pending rule. The action is authorized by Sections 67-5228 and 67-5708, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for correcting the pending rule along with a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

A transcription error occurred in Section 003, "Administrative Appeals". The language was inadvertently transcribed from an incorrect document and stated that there is no appeals process when it should have stated that there is. The text of this Section is being reprinted to show how the language should have been published.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this correction, contact Joanna L. Guilfooy at (208) 334-3388.

DATED this 15th day of January, 1998.

Joanna L. Guilfooy  
Deputy Attorney General  
Department of Administration  
P.O. Box 83720  
Boise, ID 83720-0003  
Ph: (208) 334-3388  
Fax: (208) 334-2307

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**TEXT OF DOCKET NO. 38-0404-9702**

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals of the procedures set forth in this chapter shall be governed by IDAPA 38.01.01, "Other Contested Cases or Adversary Hearings Before the Department of Administration." ~~does not provide for administrative appeals of the procedures set forth in this chapter.~~ ( )

# Subject Index

- A**
- AAA Services 21
  - ACCESS 33
  - ADMINISTRATIVE APPEALS 117
  - ADULT DAY CARE 25
  - Access services 38
  - Account 51
  - Act 16
  - Activities of Daily Living (ADL) 16
  - Administration 9
  - Administrative Requirements 40
  - Adult Day Care 17
  - Adult Protection and Ombudsman Co-ordination 31
  - Advance Directive 17
  - Agent Orange Settlement Fund 64, 66
  - Aging Network 17
  - Alcohol 7
  - Appeals Process 21
  - Applicability of Federal Regulations 39
  - Applicant Not In Need of Service 20
  - Application Format 54
  - Area Agency on Aging (AAA) 17
  - Area Plan 17
  - Assessment of Alleged Victim 30
  - Asylees 58, 62, 70, 73, 75
- B**
- BIA Education Grant 64
  - Bag and Possession limits--Statewide 13
  - Barriers to Service Delivery Exist 20
  - Battered Non-Citizen Admitted Before August 22, 1996 59, 71, 73
  - Battered Non-Citizen Admitted On or After August 22, 1996 59, 71, 73
  - Battered Non-citizen 63
  - Battered Non-citizen Admitted Before August 22, 1996 76
  - Battered Non-citizen Admitted On or After August 22, 1996 76
  - Bidder/Offerer/Proposer 35
  - Bidders' Conference 35
  - Billing Procedures 91
  - Blind Negotiation 36
  - Blind Review 36
  - Blood Alcohol Analysis 7
  - Blood Collection 8
  - Board 51
  - Breath Alcohol Analysis 7
- C**
- CARE COORDINATION 26
  - CHORE 24
  - CITIZENSHIP AND LEGAL NON-CITIZEN CRITERIA 75
  - CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT 57, 69, 71
  - CITIZENSHIP OR SATISFACTORY IMMIGRATION STATUS 61
  - CLINIC SERVICES -- MENTAL HEALTH CLINICS 100
  - CM Provider Agency Qualifications 108
  - CM Provider Staff Qualifications 108
  - COLLECTION AND ACCOUNTABILITY OF PARTICIPANT CONTRIBUTIONS 36
  - COMMERCIAL SOLID WASTE SITING LICENSE APPLICATION 54
  - COMMERCIAL SOLID WASTE SITING LICENSE FEE 53
  - COST SETTLEMENTS 112
  - Care Coordination 17
  - Care Coordination Supervisor 17
  - Care Coordinator 17
  - Care and Services Provided 101
  - Care and Services not Covered 101
  - Caretaker Neglect 31
  - Case Closure 31
  - Case Review 31
  - Checks 9
  - Chore Services 17
  - Civil Liberties Act of 1988 64, 66
  - Client 17
  - Client Contributions 20
  - Cognitive Impairment 17
  - Commercial Solid Waste Facility 51
  - Commercial Solid Waste Siting License Fee Criteria 53
  - Commercial Solid Waste Siting License Fee Not Refundable 54
  - Commercial Solid Waste Siting License Fee Scale 53
  - Commodity Program Participation Requirements 39
  - Community Support Program Provider Staff Qualifications 99
  - Complaints 33
  - Composting 51
  - Conditional Entrants 59, 62, 70, 73, 76
  - Conditional Use Permit 51
  - Conduct of Homemakers 23
  - Confidentiality 31
  - Conflict of Interest 33
  - Congregate Meals 17
  - Contract 36
  - Contracts 40
  - Controlled Hunt Areas and Number of Permits Issued 13
  - Controlled Hunts 12
  - Copies of Application 54
  - Core Services 27
  - Cost Considerations 94
  - Court Vistor 33
  - Cover Materials 51
  - Coverage Conditions - Equipment 88
  - Coverage Conditions - Supplies 91
  - Crime Act of 1984 as amended by P.L. 103-322 64, 67
- D**
- DEFINITIONS 7, 16, 35, 38, 51
  - DENIAL OF SERVICE 20
  - DURABLE MEDICAL EQUIPMENT AND MEDICAL SUPPLIES 86
  - Date of Service 92
  - Deficiencies 9
  - Department 7, 17, 51
  - Deportation Withheld 58, 62, 70, 73, 76
  - Designated Uses Within Salmon Basin - Table - APPENDIX E 43
  - Designated Uses Within Salmon Basin Table APPENDIX E 47
  - Determining Income 19
  - Direct Costs 17
  - Director 51
  - Districts 51
  - Division 51
  - Documentation 21
  - Documentation of Client Consent 31
  - Domestic Solid Waste 51
  - Ducks, Geese or Brant 10
- E**
- Early September Canada Goose Hunts 12
  - Eligibility 25
  - Eligible Clients 17
  - Eligible Immigration Status for Legal Noncitizens 61
  - Eligible Target Group 105

Emergency Admissions 80  
Energy Assistance 64, 66  
Enrollment Agreement 25  
Evaluation 29  
Evaluation Committee 36  
Evaluation and Diagnostic Services 102  
Excluded Services 98  
Exclusions 22, 79  
Expansion or Enlargement of a Commercial Solid Waste Facility 54

**F**

FEES AND CLIENT CONTRIBUTIONS 19  
FRAUDULENT MISREPRESENTATION OF RESIDENCY 71  
Family or Other Supports Adequate 20  
Federal EITC 64  
Fee Based on Actual Cost 20  
Fee Required 20  
Fee Waived 20  
Fee for Services 17  
Fees and Upper Limits 92  
Fiscal Effectiveness 17  
Formal Services 18  
Functional Impairment 18

**G**

General Seasons 12  
Geographical Inaccessibility 20  
Guardianship 33

**H**

HANDLING OF COMPLAINTS 33  
HOMEMAKER 21  
HUD Payments 64  
Hazardous Solid Waste 51  
Hiring 33  
Home-Delivered Meals 18  
Homemaker 18  
Homemaker Service 18  
Homemaker Training and Supervision 23  
Household 18  
Hunt Area 901-1 14  
Hunt Area 901-2 14  
Hunt Area 901-3 14  
Hunt Area 901-4 14  
Hunt Area 901-5 14  
Hunt Area 902-1 14  
Hunt Area 902-2 14

Hunt Area 902-3 14  
Hunt Area 903-1 14  
Hunt Area 903-2 14  
Hunt Area 977-4. Those portions of Game Management Units 73, 74, and 77 within Franklin County 14  
Hunt Area 977-5. Those portions of Game Management Units 73, 74, and 77 within Franklin County 14

**I**

I&A 39  
INCOME EXCLUDED BY FEDERAL LAW 65  
INPATIENT PSYCHIATRIC HOSPITAL SERVICES 78  
INVESTIGATIVE REQUIREMENTS 30  
Idaho Commission on Aging (ICOA) 18  
Idaho Legal Aid Services 40  
Idaho Retreader 51  
Incinerator 51  
Income Declaration 19  
Individual Plan of Care 80  
Individual Supportive Service Plan (SSP) 24  
Informal Supports 18  
Instrumental Activities of Daily Living (IADL) 18  
Instruments 9  
Intake and Assessment 24  
Investigation 34  
Investigative Findings 30

**J**

JTPA 64

**L**

LEGAL ASSISTANCE 40  
Laboratory 8  
Laboratory Evidence 92  
Land Fill 51  
Leachate 51  
Legal Assistance 39  
Legal Documents 33  
Legal Representative 18  
Length of Stay 80  
Letter of Intent 36  
Lift 51  
Location 54

**M**

Maintenance of Legal Assistance Records 40  
Maximum Payment Per Encounter 112  
Meal Site 39  
Medical Emergencies 23  
Medical Equipment Program Requirements 86  
Medical Necessity Criteria 78, 86  
Medical Necessity Documentation 92  
Medical Supply Program Requirements 90  
Migratory Game Birds 10  
Minimum Qualifications 32  
Motor Vehicle 52  
Municipal Solid Waste Landfill (MSWLF) 52

**N**

NUTRITION SERVICES 39  
National Aging Program Information System 18  
National Standards 26  
Negative Utility Allowance 66  
Non-Institutional 18  
Non-Jurisdictional Complaints 33  
Notification of Adjustment of the Fee 54  
Notification of Termination and Right to Appeal 21

**O**

OXYGEN AND RELATED EQUIPMENT 92  
Offset, Reclassified or Excluded Costs 112  
Older Americans Act (OAA) 18  
Ombudsman 18  
Open Dump 52  
Other Care Required 20  
Other Supportive Services 28  
Outreach Service 39

**P**

P.L. 100-175 65  
P.L. 100-435 66  
P.L. 100-70 65  
P.L. 101-277 64, 66  
P.L. 101-41 64, 66  
P.L. 101-426 64, 66  
P.L. 101-508 66  
P.L. 101-610 66

P.L. 102-237	64, 66	Privacy	34	Reuse	52
P.L. 102-325	66	Proficiency Testing	8	Review Committee	52
P.L. 102-523	64	Program	19	Rural	39
P.L. 103-286	64, 66	Program Abuse	91		
P.L. 103-436	64, 66	Program Intake and Eligibility Determination	25	<b>S</b>	
P.L. 103-82	66	Projected Waste Volume	52	SALMON BASIN	43, 47
P.L. 104-204	64, 66	Provider	19	SSI Payments Under Zebley v. Sullivan Ruling	64, 66
P.L. 91-646	63, 65	Provider Qualifications	81	STAFFING.	32
P.L. 92-203	63, 65	Provision of Service	40	SUPPORTIVE SERVICES AND CASE CLOSURE	31
P.L. 93-113	65	Public Waters	52	Salvage	52
P.L. 93-134	63, 65	Purpose of Service	22	Sanitary Landfill	52
P.L. 93-288	63, 65			Screening Guidelines of FQHC Staff Productivity	111
P.L. 93-531	63, 65	<b>Q</b>		Screening and Referral	26
P.L. 94-114	63, 65	Qualifications	26	Security For Cash Collections	37
P.L. 94-189	63, 65	Quality Control	8	Service Descriptions	96
P.L. 94-540	63, 65			Service Eligibility	22, 24
P.L. 95-433	63, 65	<b>R</b>		Service Exclusions	93
P.L. 96-420	63, 65	REHABILITATIVE SERVICES - - MENTAL HEALTH	95	Service Limitations	100
P.L. 97-300	65	REIMBURSEMENT - GENERAL	111	Service Priority	22, 24, 26
P.L. 97-365	63, 65	REPORTING REQUIREMENTS	36	Services	26
P.L. 97-403	63, 65	REQUIREMENTS FOR BLOOD AND URINE ALCOHOL ANALYSES	8	Services Descriptions	106
P.L. 97-408	63, 65	REQUIREMENTS FOR PERFORMING BREATH ALCOHOL TESTING	9	Shopping Assistance	19
P.L. 98-123	63, 65	RESOURCES EXCLUDED BY FEDERAL LAW	63	Site	52
P.L. 98-500	63, 65	Recertification	93	Site Size	52
P.L. 98-64	63, 65	Recipient's Choice	109	Sliding Fee Scale	19
P.L. 99-264	64, 65	Record Keeping	81	Sole Source	36
P.L. 99-346	64, 65	Record Keeping Requirements	104	Solid Waste	52
P.L. 99-498	64	Record Requirements	99, 110	Solid Waste Management Site	53
PCS	22	Records	9	Solid Waste Management System	53
Parolees	59, 62, 70, 73, 76	Recycling	52	Staffing	25
Participant Contribution Confidentiality	36	Referral for Care Coordination	27	Standards of Performance	29
Passenger and Light Truck Tire	52	Referral to Law Enforcement	31	State Funds Cost Sharing	37
Payment	81	Refugees	57, 62, 70, 72, 75	Statement of Work	36
Payment Procedures	105	Report	9	Structure and Role	28
Payment for Service	37	Reported	9	Supportive Service Plan (SSP)	19
Payment for Services	100, 109	Reporting Deficiencies	36	Supportive Services Plan	31
Performance-Based Agreement	36	Reporting Forms	36	Supportive Services Technician	19
Performance-Based Agreements	18	Request for Proposal (RFP)	36	Suspense File	31
Permanent Residents Admitted Before August 22, 1996	57, 61, 69, 71, 75	Residue	52		
Permanent Residents Admitted On or After August 22, 1996	57, 62, 69, 72, 75	Respite	19	<b>T</b>	
Person	52	Responsibilities of Regions	95	TAGS, STAMPS AND PERMITS	10
Personal Care Services (PCS)	19	Results	9	TARGETED CASE MANAGEMENT FOR THE MENTALLY ILL	105
Pheasant, Quail or Partridge	10	Retail Seller of Motor Vehicle Tires and Wholesale Seller of Motor Vehicle Tires	52	TERMINATION OF SERVICE	20
Planning and Service Area (PSA) Policy	21, 24, 25, 26			Tire	53
Poverty Guidelines	19			Title III-B Funds	40
Prior Authorization	80, 93			Training	9
				Transfer Station	53
				Transportation Services	19



Treatment Services 102

**U**

USDA Eighty/Twenty (80/20) Com-  
modity Program 39

USDA One Hundred Percent (100%)  
Cash-In-Lieu Commodity Program  
39

Uniform Assessment Instrument (UAI)  
19

Urine Alcohol Analysis 8

Use of Fees and Contributions 20

Used to Support Service 37

Utilization Review (UR) 81

**V**

VISTA Payments 66

Verification of Service Provider Reports  
36

Visitation 34

Vulnerability Determination 30

**W**

WIC 64

WILD TURKEY CONTROLLED  
HUNT AREA DESCRIP-  
TIONS 14

Waste Tire 53

Waste Tire Collection Site 53

Waste Tires Generated In Idaho 53

Wild Turkey 11

Working Agreements 27

Working Face 53

**Y**

Youth Hunts 13