

# IDAHO ADMINISTRATIVE BULLETIN

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January 6, 1999

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**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.02.28 - RULES GOVERNING THE REGISTRATION OF FREE MEDICAL CLINICS**

**DOCKET NO. 16-0228-9801**

**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 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) HB 567, 39-77 Idaho Code, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 2, 1998 Administrative Bulletin, October 7, 1998, Volume 98-10, pages 87 through 89.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jane S. Smith at, (208) 334-5932.

DATED this 6th day of January, 1999.

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 02**  
**Chapter 28**

**RULES GOVERNING THE REGISTRATION OF FREE MEDICAL CLINICS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 87 through 89.**

**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**  
**16.03.01 - RULES GOVERNING ELIGIBILITY FOR MEDICAID**  
**FOR FAMILIES AND CHILDREN**

**DOCKET NO. 16-0301-9802**

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

**EFFECTIVE DATE:** The amendments to the temporary rule are effective January 1, 1999. 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 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 Sections 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) 67-5221(l), 67-5226, and 56-209(b), Idaho Code.

**DESCRIPTIVE SUMMARY:** Section 217 of the proposed rules has 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 October 7, 1998 Administrative Bulletin, Volume 98-10, pages 90 through 92.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 6th day of January, 1999.

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 ELIGIBILITY FOR 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 98-10, October 7, 1998, pages 90 through 92.

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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THE FOLLOWING IS TEXT OF DOCKET NO. 16-0301-9802

**217. COOPERATION WITH CHILD SUPPORT.**

The participant must cooperate to identify and locate the noncustodial parent, establish paternity, and establish, modify and enforce a child support order. The cooperation requirement may be waived if the participant has good cause for not cooperating or if the participant is an individual described in Section 1902(1)(1)(a) of the Social Security Act. These are poverty level pregnant women exempt from cooperating in establishing paternity and obtaining medical support and payments from, or derived from, the father of the child born out of wedlock. ~~Good cause for not cooperating is a situation where cooperation is not in the best interest of the participant. Good cause can include situations of rape, incest, or domestic violence that can be proven. A participant who cannot legally assign his own rights must not be denied Medicaid if the legally responsible person does not cooperate.~~ (1-1-99)T(1-1-99)T

01. Cooperation Defined. Cooperation includes, but is not limited to, providing all information to identify and locate the noncustodial parent. Cooperation for Medicaid includes identifying other liable third party payers. The participant must provide the first and last name of the noncustodial parent. The participant must also provide at least two (2) pieces of information about the noncustodial parent, listed in Subsections 217.01.a. through 217.01.g. (1-1-99)T

- a. Birth Date. (1-1-99)T
- b. Social Security Number. (1-1-99)T
- c. Current address. (1-1-99)T
- d. Current phone number. (1-1-99)T
- e. Current employer. (1-1-99)T
- f. Make, model, and license number of any motor vehicle owned by the noncustodial parent. (1-1-99)T
- g. Names, phone numbers and addresses of the parents of the noncustodial parent. (1-1-99)T

02. Good Cause Defined. The participant may claim good cause for failure to cooperate in securing medical and child support for himself or a minor child. Good cause is limited to the reasons listed in Subsections 217.02.a. through 217.02.c. (1-1-99)T

- a. There is proof the child was conceived as a result of incest or rape. (1-1-99)T
- b. There is proof the child's noncustodial parent may inflict physical or emotional harm to the participant, the child, the custodial parent or the caretaker relative. (1-1-99)T
- c. Substantial and credible proof is provided indicating the participant cannot provide the minimum information regarding the noncustodial parent. (1-1-99)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.03 - RULES GOVERNING CHILD SUPPORT SERVICES**  
**DOCKET NO. 16-0303-9801**

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

**EFFECTIVE DATE:** The amendments to the temporary rule are effective January 1, 1999. 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 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 Sections 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 and 56-203A, Idaho Code.

**DESCRIPTIVE SUMMARY:** The proposed rules have been amended to make a change to Section 202 of the rules correcting the effective date to January 1, 1999, and are being amended pursuant to Section 67-5227, Idaho Code.

Only the section that has changed is printed in this bulletin. The original text of the proposed rules was published in the October 7, 1998 Administrative Bulletin, Volume 98-10, pages 93 through 96.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 6th day of January, 1999.

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 03**

**RULES GOVERNING CHILD SUPPORT SERVICES**

**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 98-10, October 7, 1998,  
pages 93 through 96.**

**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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**THE FOLLOWING IS TEXT OF DOCKET NO. 16-0303-9801**

**202. ELIGIBILITY FOR MEDICAID.**

As a condition of eligibility, the applicants and participants must:

(7-1-98)

01. Assign Their Medical Support Rights. Applicants and participants shall assign to Child Support Services all rights to any medical support available under an order of a court or an administrative agency. The assignment shall include the right to third party payments and the right to medical support that accrued prior the date of the assignment. The applicant/recipient shall not be required to assign rights to Medicare benefits. (7-1-98)

02. Grant Limited Power of Attorney. Applicants and participants shall grant a limited power of attorney to Child Support Services to pursue the establishment and enforcement of child support orders.

~~(10-1-98)~~(1-1-99)T

03. Cooperate. If an applicant/participant fails to cooperate, Child Support Services shall notify Medicaid. (7-1-98)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE**  
**AGED, BLIND, AND DISABLED (AABD)**

**DOCKET NO. 16-0305-9801**

**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 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 67-5224, 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 39-106(l), Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 7, 1998 Administrative Bulletin, Volume 98-10, page 97.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 6th day of January, 1999.

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 05**

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

**This chapter is being repealed in its entirety.**

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

**The original text was published in the Idaho Administrative Bulletin,**  
**Volume 98-10, October 7, 1998, page 97.**

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

**DOCKET NO. 16-0305-9802**

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

**EFFECTIVE DATE:** The amendments to the temporary rule are effective October 1, 1998 and January 1, 1999. 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 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 Sections 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 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 October 7, 1998 Administrative Bulletin, Volume 98-10, pages 98 through 164.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 6th day of January, 1999.

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 05**

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

**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 98-10, October 7, 1998,  
pages 98 through 164.

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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**THE FOLLOWING IS TEXT OF DOCKET NO. 16-0305-9802**

**071. DEATH OF APPLICANT.**

An application may be filed for a deceased person. The application must be filed within the backdated eligibility period. Medicaid can be approved, through the date of death, if an AABD applicant dies before eligibility is determined. ~~(10-1-98)F~~(10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**412. RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI).**

RSDI monthly benefits are unearned income. The income is the amount reported by SSA, regardless of penalties to recover an SSI overpayment. ~~(10-1-98)F~~(10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**452. DEEMING INCOME FROM INELIGIBLE SPOUSE TO PARTICIPANT.**

Income is deemed from an ineligible spouse to the participant, if they live together. Income is deemed as described in Subsections 452.01 through 452.08.

TABLE 452 - INCOME DEEMED FROM INELIGIBLE SPOUSE		
	STEP	PROCEDURE
01.	Compute Child's Living Allowance.	Compute the living allowance for each ineligible child in the household. The living allowance is the difference between the basic allowance for a person living alone and the basic allowance for a couple. Round up cents to the next dollar. A child receiving public income-maintenance payments does not get a living allowance.  Subtract the child's unearned income from his living allowance. Subtract the child's earned income from any living allowance remaining.

<b>TABLE 452 - INCOME DEEMED FROM INELIGIBLE SPOUSE</b>		
	<b>STEP</b>	<b>PROCEDURE</b>
02.	Adjust Spouse Income with Child's Living Allowance	Subtract the remaining living allowance, for each ineligible child in the household, from the ineligible spouse's gross unearned income, then from gross earned income.
03.	Add Adjusted Earned and Unearned Incomes	Add adjusted earned and unearned income. This is the deemed income of the ineligible spouse.
04.	Compute Participant's Needs as a Single Person	Compute the participant's budgeted AABD needs as if he was a single person, living alone.
05.	Deemed Income Equal to or Less Than One-Half of Participant's Needs	If the deemed income is equal to, or less than, one-half of the participant's budgeted needs, computed as if he was a single person living alone, no income is deemed from the ineligible spouse.
06.	Deemed Income More Than One-Half Participant's Needs	If the deemed income is more than one-half of the participant's budgeted needs, computed as if he was a single person living alone, continue the deeming process.
07.	Compute Participant's Income	<p>Add the remaining earned and unearned ineligible spouse deemed income (after the ineligible child deduction) to the gross earned and unearned incomes of the participant <del>and ineligible spouse</del>. This is the total earned and unearned income.</p> <p>Subtract the standard disregard of twenty dollars (\$20) from the total unearned income.                      If the total unearned income is less than twenty dollars (\$20), subtract the remainder from the total earned income.</p> <p>Subtract the earned income disregard of sixty-five dollars (\$65) from the earned income.                      Subtract one-half of the remaining earned income.                      Combine the remaining unearned income and the remaining earned income to compute the participant's total countable income.</p> <p>Determine the couple's budgeted needs as if they were an eligible couple. If the participant's countable income, including deemed income, is more than the couple's budgeted needs, the participant is ineligible.</p> <p>If the participant's countable income, including deemed income, is less than the couple's budgeted needs compute the participant's AABD cash.</p>
08.	Determine AABD Cash	<p>Subtract the participant's countable and deemed incomes from the couple's budgeted needs, to compute the budget deficit.</p> <p>Compute a second budget deficit, using the participant's income, and the single person budgeted needs.</p> <p>AABD cash is the smaller of the two (2) budget deficits.</p>



(10-1-98)T(10-1-98)T

**453. DEEMING INCOME FROM INELIGIBLE PARENT TO AABD CHILD.**

Income is deemed from an ineligible parent, or his ineligible spouse, to a child participant under age eighteen (18) living in the same household. A stepparent's income is deemed to the child for AABD cash, but not Medicaid. The income is deemed as described in Subsections 453.01 through 453.11.

TABLE 453 - INCOME DEEMED FROM INELIGIBLE PARENT		
	STEP	PROCEDURE
01.	Compute Child's Living Allowance	<p>Compute the living allowance for each ineligible child in the household. The living allowance is the difference between the basic allowance for a person living alone and the basic allowance for a couple. Round up cents to the next dollar. A child receiving public income-maintenance payments does not get a living allowance.</p> <p>Subtract the child's unearned income from his living allowance.                      Subtract the child's earned income from any living allowance remaining.</p> <p>Subtract the remaining living allowance, for each ineligible child in the household, from the ineligible parents unearned income. If any living allowance remains subtract it from the parent's earned income.</p>
02.	Remaining Parental Income	The parent may have remaining income. Go to Subsection 453.03.
03.	Subtract Income Disregard	Subtract <del>the one (1)</del> standard twenty dollar (\$20) disregard from the <u>unearned income of the parent's unearned income</u> . If unearned income is less than twenty dollars (\$20) subtract the balance of the twenty dollars (\$20) from the <u>earned income of the parent's earned income</u> .
04.	Subtract Earned Income Disregard	Subtract <del>the one (1)</del> sixty-five dollar (\$65) earned income disregard from the <u>earned income of the parent's earned income</u> . Subtract one-half (1/2) of the remaining balance of the <u>earned income of the parent's earned income</u> .
05.	Combine Income	Combine any remaining parental earned income with any remaining parental unearned income.
06.	Compute Living Allowance for Parent	<p>Compute a living allowance for the ineligible parent. For one (1) parent, the living allowance is the basic allowance for a person living alone.</p> <p>For two (2) parents, the living allowance is the basic allowance for a couple. A parent receiving public income maintenance payments does not get a living allowance.</p>
07.	Subtract Living Allowance	Subtract the parent living allowance from the remaining balance of the parent's income. This is the deemed parental income.

<b>TABLE 453 - INCOME DEEMED FROM INELIGIBLE PARENT</b>		
	<b>STEP</b>	<b>PROCEDURE</b>
08.	Divide Deemed Income	If there is more than one (1) child participant in the household, the deemed parental income is divided equally between those children. Each child's share of parental income must only reduce the amount of his AABD cash to zero, when combined with the child's own countable income. Excess deemed parental income, remaining after a child participant's AABD cash is reduced to zero, is divided equally between the other child participants in the household. The excess deemed income is combined with their share of the parental income available for deeming.
09.	Subtract Disregard	Subtract the standard twenty dollar (\$20) disregard from each child participant's unearned income, including deemed income. If a child's total unearned income is less than twenty dollars (\$20), subtract the balance of the standard disregard from the child's earned income.
10.	Subtract Disregard	Subtract the sixty-five dollar (\$65) earned income disregard and one-half of the balance from each child's own earned income.
11.	Combine Income	Combine each child's unearned income with his earned income. If the child's remaining countable income is less than his actual budgeted needs, the child has a budget deficit. If the child is otherwise eligible, his AABD cash is the budget deficit.

(10-1-98)T(10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**455. DEEMING INCOME FROM INELIGIBLE SPOUSE TO PARTICIPANT AND CHILD PARTICIPANT.**

If a participant, his ineligible spouse and their child participant live in the same household, income is deemed from the participant to the child participant. The income is deemed as described in Subsections 455.01 through 455.03.

<b>TABLE 455 - DEEMING FROM INELIGIBLE SPOUSE TO PARTICIPANT AND CHILD PARTICIPANT</b>		
	<b>STEP</b>	<b>PROCEDURE</b>
01.	Compute AABD cash	Use the procedures in Table 455 <del>2</del> , to determine if the participant is eligible for AABD cash. If the participant is eligible, no income is deemed to the child participant.
02.	Participant Not Eligible	If the participant has too much income, including deemed income, to be eligible for AABD cash, all income over the amount needed to reduce the participant's AABD cash to zero is deemed to the child participant.
03.	Divide Deemed Income	If there is more than one (1) child participant in the household, the deemed parental income is divided equally between those children. Each child's share of parental income must only reduce the amount of his AABD cash to zero, when combined with the child's own countable income. Excess deemed parental income, remaining after a child participant's AABD cash is reduced to zero, is divided equally between the other child participants in the household. The excess deemed income is combined with their share of the parental income available for deeming.

(10-1-98)T(10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**511. SEMI-INDEPENDENT GROUP RESIDENTIAL FACILITY (SIGRIF) ALLOWANCE.**

The Adult Residential Care Committee (ARCC) must certify need for care, before the SIGRIF allowance can be budgeted. A participant's SIGRIF allowance is two hundred ~~sixty~~ seventy-one dollars (\$271) monthly.

(10-1-98)T(10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**513. LICENSED ADULT RESIDENTIAL CARE FACILITY AND ADULT FOSTER CARE HOME ALLOWANCES.**

Each participant living in an adult residential care facility or adult foster home is budgeted a basic allowance of fifty-eight dollars (\$58) monthly. A participant is also budgeted a monthly allowance for adult residential care or adult foster care based on his level of care. If the participant gets a lower level of care than his assessed level, his allowance is for the lower level of care. Care levels and monthly allowances are listed in Subsections 513.01 through 513.03.

TABLE 513 CARE LEVELS AND MAXIMUM PAYMENTS		
	LEVEL OF CARE	MAXIMUM MONTHLY ALLOWANCE
01.	LEVEL I	Seven hundred and <del>sixty</del> <u>seventy-seven</u> dollars (\$7 <u>77</u> ).
02.	LEVEL II	Eight hundred and <del>thirty</del> <u>forty-four</u> dollars (\$8 <u>44</u> ).
03.	LEVEL III	Nine hundred and <del>two</del> <u>twelve</u> dollars (\$9 <u>12</u> ).

(10-1-98)T(10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**606. REQUIRED PROOF.**

The participant must prove continuing eligibility for aid when a change could affect eligibility. The participant is allowed ten (10) calendar days to provide requested proof. The case is closed if the participant does not provide proof within ten (10) days and does not have good cause for not providing proof.

(10-1-98)T

**6067. CHANGES AFFECTING ELIGIBILITY OR AABD CASH AMOUNT.**

If a participant reports a change that results in an increase, AABD cash is increased effective the month of report. If a participant reports a change that results in a decrease, AABD cash is decreased or ended effective the first month after proper notice.

(10-1-98)T

**6078. AABD CASH UNDERPAYMENT.**

If the Department is at fault for issuing a payment less than the participant should have received, the Department issues a supplemental payment for the difference.

(10-1-98)T

**6082. AABD CASH OVERPAYMENT.**

If the participant is paid more AABD cash than he is eligible for, the Department must collect the overpayment. The Department must notify the participant of the right to a hearing, the method for repayment and the need for a

repayment interview.

(10-1-98)T

**60910. OFFSET OF OVERPAYMENT AND UNDERPAYMENT.**

When an underpayment is computed, any overpayment for that month is subtracted from the underpayment. When an overpayment is computed, any underpayment for the month is subtracted. (10-1-98)T

~~6101.~~ -- 619. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**621. COLLECTING UNDERPAID PATIENT LIABILITY.**

An overpayment due to underpaid patient liability or client participation is collected by withholding funds from the nursing home or HCBS provider. Adjust the underpaid patient liability or client participation adjusted retroactively for each underpaid month. Funds are not withheld if the participant repays the Department. (10-1-98)

~~621.~~ -- 622. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**704. COOPERATION DEFINED.**

Cooperation includes, but is not limited to, providing all information to identify and locate the noncustodial parent. Cooperation for Medicaid includes identifying other liable third party payers. (1-1-99)T

01. Name of Noncustodial Parent. The participant must provide the first and last name of the noncustodial parent. (1-1-99)T

02. Information About Noncustodial Parent. The participant must also provide at least two (2) pieces of information, about the noncustodial parent, listed in Subsections 703.02.a. through 703.02.g. (1-1-99)T

a. Birth Date. (1-1-99)T

b. Social Security Number. (1-1-99)T

c. Current address. (1-1-99)T

d. Current phone number. (1-1-99)T

e. Current employer. (1-1-99)T

f. Make, model, and license number of any motor vehicle owned by the noncustodial parent. (1-1-99)T

g. Names, phone numbers and addresses of the parents of the noncustodial parent. (1-1-99)T

**7045. GOOD CAUSE FOR NOT COOPERATING IN SECURING MEDICAL AND CHILD SUPPORT.**

The participant may claim good cause for failure to cooperate in securing medical and child support for himself or a minor child. Good cause is limited to the reasons listed in Subsections 7045.01 through 7045.03.

~~(10-1-98)T~~(10-1-98)T

01. Rape or Incest. There is proof the child was conceived as a result of incest or rape. (10-1-98)T

02. Physical or Emotional Harm. There is proof the child's non-custodial parent may inflict physical or

emotional harm to the participant, the child, the custodial parent or the caretaker relative. There is proof another person may inflict physical or emotional harm to an AABD-related participant if the participant cooperates in securing medical and child support. ~~(10-1-98)T~~(10-1-98)T

03. Minimum Information Cannot Be Provided. Substantial and credible proof is provided indicating the participant cannot provide the minimum information regarding the non-custodial parent. (10-1-98)T

**7056. CLOSURE AFTER REVIEW OF GOOD CAUSE REQUEST.**

If the participant claims good cause for not cooperating, but the Department determines there is not good cause, the participant must be given the opportunity to withdraw the application or have his Medicaid closed. (10-1-98)T

**7067. GROUP HEALTH PLAN ENROLLMENT REQUIREMENT.**

The participant must apply for and enroll in a cost-effective group health plan ~~if one is available as a condition of eligibility.~~ Medicaid must not be denied, delayed, or stopped pending the start of a participant's group health insurance coverage. A child entitled to enroll in a group health plan must not be denied Medicaid solely because his caretaker fails to apply for the child's enrollment. ~~(10-1-98)T~~(10-1-98)T

**7078. MEDICAID QUALIFYING TRUST PAYMENTS.**

For Medicaid Qualifying Trusts established before August 11, 1993, the maximum payment permitted to be made to a participant from the trust must be counted for Medicaid eligibility. The maximum is counted whether or not the trustee actually distributes payments. (10-1-98)T

**7089. MEDICAID ELIGIBILITY FOR AABD PARTICIPANT.**

A participant eligible for AABD cash is eligible for Medicaid, unless he is in an ineligible institution, receives excess payment from a Medicaid Qualifying Trust, or has an irrevocable trust that is not exempt. (10-1-98)T

**7109. -- 720. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**723. PATIENT LIABILITY FOR PERSON WITH NO COMMUNITY SPOUSE.**

For a participant with no community spouse, patient liability is computed as described in Subsections 723.01 through 723.03. (10-1-98)T

01. Income of Participants in Long-Term Care. For a single participant, or participant whose spouse is also in long-term care and chooses the SSI method of calculating the amount of income and resources, the patient liability is his total income less the deductions in Subsection 723.03. (10-1-98)T

02. Community Property Income of Long-Term Care Participant With Long-Term Care Spouse. Patient liability income for a participant, whose spouse is also in long-term care, choosing the community property method, is one-half (1/2) his share of the couple's community income, plus his own separate income. The deductions in Table 723.03 are subtracted from his income. (10-1-98)T

03. Income of Participant in Facility. A participant residing in the long-term care facility at least one (1) full calendar month, beginning with his most recent admission, must have the deductions in Subsection 723.03.a. through 723.03.n. subtracted from his income, after the AABD exclusions are subtracted from the income. Total monthly income includes income paid into an income (Miller) trust that month. The income deductions must be subtracted in the order listed. Remaining income is patient liability. (10-1-98)T

a. AABD income exclusions. Subtract income excluded in determining eligibility for AABD cash. (10-1-98)T

b. Aid and attendance and UME allowances. Subtract a VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse. (10-1-98)T

c. SSI payment two (2) months. Subtract the SSI payment for a participant entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility. (10-1-98)T

d. AABD payment. Subtract the AABD payment, and income used to compute the AABD payment, for a participant paid continued AABD payments up to three (3) months in long-term care. (10-1-98)T

e. Protected VA pension. Subtract a protected VA pension for a veteran with no spouse or dependents or for a surviving spouse with no dependents. (10-1-98)T

f. Personal needs. Subtract thirty dollars (\$30) for the participant's personal needs. For a veteran or surviving spouse with a protected VA pension, the protected pension substitutes for the thirty dollar (\$30) personal needs deduction. (10-1-98)T

g. Employed and sheltered workshop activity personal needs. For an employed participant or participant engaged in sheltered workshop or work activity center activities, subtract the lower of the personal needs deduction of eighty dollars (\$80) or his gross earned income. The participant's total personal needs allowance must not exceed one hundred and ten dollars (\$110). For a veteran or surviving spouse with sheltered workshop or earned income, and a protected VA pension, the total must not exceed eighty dollars (\$80). This is a deduction only. No actual payment can be made to provide for personal needs. ~~(10-1-98)T~~(10-1-98)T

h. Home maintenance. Subtract two hundred and twelve dollars (\$212) for home maintenance cost if the participant had an independent living situation, before his admission for long-term care. His physician must certify in writing the participant is likely to return home within six (6) months, after the month of admission to a long-term care facility. This is a deduction only. No actual payment can be made to maintain the participant's home. (10-1-98)T

i. Maintenance need. Subtract a maintenance need deduction for a family member, living in the long-term care participant's home. A family member is claimed, or could be claimed, as a dependent on the Federal Income Tax return of the long-term care participant. The family member must be a minor or dependent child, dependent parent, or dependent sibling of the long-term care participant. The maintenance need deduction is the AFDC payment standard for the dependents, computed according to the AFDC State Plan in effect before July 16, 1996. (10-1-98)T

j. Medicare and health insurance premiums. Subtract expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Medicare Part B premiums must not be subtracted, if the participant got SSI or AABD cash the month prior to the month for which patient liability is being computed. (10-1-98)T

k. Mandatory income taxes. Subtract taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the participant receives the income. (10-1-98)T

l. Guardian fees. Subtract court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars (\$25). Where the guardian and trustee are the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars (\$25) monthly. (10-1-98)T

m. Trust fees. Subtract up to twenty-five dollars (\$25) monthly paid to the trustee for administering the participant's trust. (10-1-98)T

n. Impairment related work expenses. Subtract impairment-related work expenses for an employed participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services, purchased or rented to perform work. The items must be needed because of the participant's impairment. The actual monthly expense of the impairment-related items is subtracted. Expenses must not be averaged. (10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**742. COMMUNITY SPOUSE RESOURCE ALLOWANCE.**

The CSRA protects resources for the community spouse. The CSRA is determined by subtracting the greater of the minimum resource allowance, or the spousal share from the couple's total combined resources as of the first day of the application month. The deduction must not be more than the maximum resource allowance.

~~(10-1-98)T~~(10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**745. UPWARD REVISION OF CSRA.**

If the community spouse's ~~own~~ income, ~~plus~~ including his income from his CSA and income-producing resources in ~~the~~ his CSA, is less than the minimum CSA, the CSRA may be increased. The CSRA is increased by enough resources, transferred from the long-term care spouse, to raise the community spouse's income to the minimum CSA. Resources included in the transfer are presumed to produce income of five percent (5%) yearly, whether or not the resources produce income, or produce five percent (5%). If the community spouse shows he is making reasonable use of his income and resources, to generate income, the Department may waive the five percent (5%) yearly income requirement. Actual income produced by the resources transferred to the community spouse is used to compute the CSA. If the transferred resources produce more than five percent (5%) yearly income, the actual income produced is used to determine the additional resources that can be transferred to the community spouse in the CSRA. The long-term care spouse must transfer the resources to the community spouse, or the CSRA is not revised.

~~(10-1-98)T~~(10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**871. TREATMENT OF TRUSTS.**

These trust treatment rules apply to all Medicaid participants. These rules apply to trusts established with the participant's assets on August 11, 1993 or later, and to trusts funded August 11, 1993 or later. This Section does not apply to an irrevocable trust if the participant meets the undue hardship exemption in Subsection 840.12. Assets transferred to a trust are subject to the asset transfer penalty. Section 871 does not apply to a trust established by a will.

~~(10-1-98)T~~(10-1-98)T

01. Revocable Trust. Revocable trusts are treated as listed in Subsections 871.01.a. through 871.01.d. A revocable burial trust is not a trust for the purposes of Subsection 871.01. (10-1-98)T

a. The body (corpus) of a revocable trust is a resource. (10-1-98)T

b. Payments from the trust to or for the participant are income. (10-1-98)T

c. Any other payments from the trust are an asset transfer, triggering an asset transfer penalty period. (10-1-98)T

d. The home and adjoining property loses its exclusion when transferred to a revocable trust, unless the participant or spouse is the sole beneficiary of the trust. The home is excluded again if removed from the trust. The exclusion restarts the next month. (10-1-98)T

02. Irrevocable Trust. Irrevocable trusts are treated as listed in Subsections 871.02.a. through 871.02.g. (10-1-98)T

a. The part of the body of an irrevocable trust, from which corpus or income payments could be made to or for the participant, is a resource. (10-1-98)T

- b. Payments made to or for the participant are income. (10-1-98)T
- c. Payments from the trust for any other reason are asset transfers, triggering the asset transfer penalty. (10-1-98)T
- d. Any part of the trust from which payment cannot be made to, or for the benefit of, the participant under any circumstances, is an asset transfer. (10-1-98)T
- e. The effective date of the transfer is the date the trust was established, or the date payments to the participant were foreclosed. (10-1-98)T
- f. The value of the trust, for calculating the transfer penalty, includes any payments made from that portion of the trust after the date the trust was established or payments were foreclosed. (10-1-98)T
- g. An irrevocable burial trust is not subject to treatment under Subsection 871.02, unless funds in the trust can be paid for a purpose other than the participant's funeral and related expenses. The trust can provide that funds not needed for the participant's funeral expenses are available to reimburse Medicaid, or to go to the participant's estate. (10-1-98)T



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE**  
**AGED, BLIND, AND DISABLED (AABD)**

**DOCKET NO. 16-0305-9901**

**NOTICE OF TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** These temporary rules are effective January 1, 1999.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 39-106(l), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 20, 1999.

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

**DESCRIPTIVE SUMMARY:** The Department must pass along Social Security Cost-of-Living Adjustments (COLAs) as a condition of receiving Medicaid federal funds. The COLA is passed along by increasing income limit for Aid to the Aged, Blind and Disabled (AABD) and Medicaid. A new federal law requires that gifts to terminally ill children from tax exempt non-profit foundations be excluded from income and resources.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs and to confer a benefit.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at 334-5818.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 27, 1999.

DATED this 6th day of January, 1999.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
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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**THE FOLLOWING IS TEXT OF DOCKET NO. 16-0305-9901**

**246. LIMITED AWARD TO CHILD WITH LIFE-THREATENING CONDITION.**

Any gift from a tax exempt nonprofit organization to a child under age eighteen (18), who has a life threatening condition, is excluded from resources under the conditions in Subsections 246.01 through 246.02. (1-1-99)T

01. In-Kind. An in-kind gift is excluded if the gift is not converted to cash. (1-1-99)T
02. Cash. Cash gifts are excluded up to two thousand dollars (\$2,000) for the calendar year the cash gifts are made. (1-1-99)T
- ~~2467.~~ -- 254. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**437. LIMITED AWARD TO CHILD WITH LIFE-THREATENING CONDITION.**

Any gift from a tax exempt nonprofit organization to a child under age eighteen (18), who has a life threatening condition, is excluded from income under the conditions in Subsections 437.01 through 437.02. (1-1-99)T

01. In-Kind. An in-kind gift is excluded if the gift is not converted to cash. (1-1-99)T
02. Cash. Cash gifts are excluded up to two thousand dollars (\$2,000) for the calendar year the cash gifts are made. (1-1-99)T
- ~~4378.~~ -- 450. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**501. BASIC ALLOWANCE.**

The basic allowance for a participant, not living in a nursing facility, is listed in Subsections 501.01 through 501.04. (10-1-98)T

01. Single Participant. A participant is budgeted five hundred ~~thirty four~~ forty dollars (\$5340) monthly as a basic allowance when living in a situation described in Subsections 501.01.a. through 501.01.f. ~~(10-1-98)T~~(1-1-99)T
- a. Living alone. (10-1-98)T
- b. Living with his ineligible spouse. (10-1-98)T
- c. Living with another participant who is not his spouse. (10-1-98)T
- d. Living in another's household. (10-1-98)T
- e. Living in a room and board home. Room and board is a living arrangement where the participant purchases lodging (room) and meals (board). (10-1-98)T
- f. Living with his TAFI child. (10-1-98)T
02. Couple or Participant Living With Essential Person. A participant living with his participant spouse or his essential person is budgeted seven hundred ~~fifty~~ sixty-six dollars (\$7566) monthly as a basic allowance. ~~(10-1-98)T~~(1-1-99)T
03. SIGRIF. A participant living in a semi-independent group residential facility (SIGRIF) is budgeted three hundred forty-nine dollars (\$349) monthly as a basic allowance. (10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**511. SEMI-INDEPENDENT GROUP RESIDENTIAL FACILITY (SIGRIF) ALLOWANCE.**

The Adult Residential Care Committee (ARCC) must certify need for care, before the SIGRIF allowance can be budgeted. A participant's SIGRIF allowance is two hundred ~~sixty-one~~ seventy-seven dollars (~~\$261~~77) monthly.

~~(10-1-98)T~~(1-1-99)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**513. LICENSED ADULT RESIDENTIAL CARE FACILITY AND ADULT FOSTER CARE HOME ALLOWANCES.**

Each participant living in an adult residential care facility or adult foster home is budgeted a basic allowance of fifty-eight dollars (\$58) monthly. A participant is also budgeted a monthly allowance for adult residential care or adult foster care based on his level of care. If the participant gets a lower level of care than his assessed level, his allowance is for the lower level of care. Care levels and monthly allowances are listed in Subsections 513.01 through 513.03.

TABLE 513 CARE LEVELS AND MAXIMUM PAYMENTS		
	LEVEL OF CARE	MAXIMUM MONTHLY ALLOWANCE
01.	LEVEL I	Seven hundred and <del>seventy-seven</del> <u>eighty-three</u> dollars (\$ <del>777</del> <u>83</u> ).
02.	LEVEL II	Eight hundred and <del>forty-four</del> <u>fifty</u> dollars (\$ <del>844</del> <u>50</u> ).
03.	LEVEL III	Nine hundred and <del>twelve</del> <u>eighteen</u> dollars (\$ <del>912</del> <u>8</u> ).

~~(10-1-98)T~~(1-1-99)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**787. PERSON ENTITLED TO HOME AND COMMUNITY BASED SERVICES (HCBS).**

An aged, blind or disabled person not eligible for SSI or AABD cash in his own home, because of income deeming or income limits, is eligible for Medicaid if he meets the conditions in Subsections 787.01 through 787.12. (10-1-98)T

01. Age. Is at least twenty-one (21) years old. (10-1-98)T

02. AABD Criteria. If under age sixty-five (65), meets the AABD blindness or disability criteria. (10-1-98)T

03. AABD Resource Limit. Meets the AABD single person resource limit. (10-1-98)T

04. HCBS Income Limit. For HCBS-NF, has income not exceeding nine hundred ~~fifty-five~~ sixty-seven dollars (~~\$955~~67). For HCBS-DD, has income not exceeding three (3) times the Federal SSI benefit payable monthly to a single person. ~~(10-1-98)T~~(1-1-99)T

05. Eligible for Long Term Care. For HCBS-NF, meets the medical conditions for nursing facility care in accordance with IDAPA 16.03.09, "Rules Governing Medical Assistance," Subsection 160.09. For HCBS-DD, meets the medical conditions for ICF/MR care in accordance with IDAPA 16.03.09, "Rules Governing Medical Assistance," Section 143. (10-1-98)T

06. Home Care. For HCBS-NF, can be maintained in his own home with Personal Care Services (PCS) furnished under the Department's HCBS waiver. For HCBS-DD, can be maintained in the community. (10-1-98)T

07. Cost of Care. For HCBS-NF, can be cared for at home at a cost not to exceed the statewide average cost of care for the participant's level of care. The estimated cost of care in a nursing facility is the statewide average rate for the level of care the participant requires, charged by the type of facility where he would be placed if he were not living at home. For traumatic brain injury patients, the estimated cost of care is at the nursing facility special rate. (10-1-98)T

08. Care Requirement. For HCBS-NF, must require and receive, or be likely to require and receive, HCBS waiver personal care services for thirty (30) consecutive days. For HCBS-DD, must require and receive, or be likely to require and receive, HCBS-DD waiver services for thirty (30) consecutive days. (10-1-98)T

09. Effective Date. Medicaid is effective the first day of the thirty (30) day period the participant required and received HCBS-NF or HCBS-DD waiver services. (10-1-98)T

10. Participant With Spouse. A married participant living at home with his spouse who is not and HCBS participant, can choose between the SSI, CP, and FSI methods. If his spouse is also an HCBS participant or lives in a nursing home, the couple can choose between the SSI and CP methods. (10-1-98)T

11. Continued Services. The participant must continue to require and receive waiver services. The participant is ineligible when there is a lapse in need for or receipt of waiver services for thirty (30) days. (10-1-98)T

12. Annual Limit. A participant who applies for HCBS Medicaid, after the annual limit on HCBS-NF or HCBS-DD waiver participants is reached, must be denied Medicaid. (10-1-98)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.06 - RULES GOVERNING REFUGEE MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0306-9801**

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

**EFFECTIVE DATE:** The amendments to the temporary rule are effective October 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 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 Sections 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 and 56-203, Idaho Code.

**DESCRIPTIVE SUMMARY:** Section 400 of the proposed rules has 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 October 7, 1998 Administrative Bulletin, Volume 98-10, pages 165 through 178.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell, Bureau Chief, at (208) 334-5818.

DATED this 6th day of January, 1999.

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 06**

**RULES GOVERNING REFUGEE 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 98-10, October 7, 1998,  
pages 165 through 178.

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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**THE FOLLOWING IS TEXT OF DOCKET NO. 16-0306-9801**

**400. REFUGEE MEDICAL ASSISTANCE PROGRAM.**

01. Time Limitation. Medical assistance under the Refugee Medical Assistance Program will be limited to eight (8) consecutive months beginning with the month the refugee enters the United States. The eligibility period for a child born in the United States to parents receiving Refugee Medical Assistance expires when both of his parents with whom he is living are no longer eligible. (10-1-98)T

02. Medical Only. A refugee is not required to apply for or receive Cash Assistance as a condition of eligibility for Refugee Medical Assistance. (10-1-98)T

03. Automatic Eligibility. Refugees whose countable income does not exceed the AFDC payment standard are automatically eligible for medical assistance. The AFDC payment standard is listed in Table 400.03.

<u>TABLE 400.03 - AFDC PAYMENT STANDARD</u>	
<u>NUMBER IN FAMILY</u>	<u>PAYMENT STANDARD</u>
<u>1</u>	<u>\$205</u>
<u>2</u>	<u>\$251</u>
<u>3</u>	<u>\$317</u>
<u>4</u>	<u>\$382</u>
<u>5</u>	<u>\$448</u>
<u>6</u>	<u>\$513</u>
<u>7</u>	<u>\$579</u>
<u>8</u>	<u>\$645</u>
<u>9</u>	<u>\$710</u>
<u>10</u>	<u>\$776</u>
<u>OVER 10 PERSONS</u>	<u>ADD \$65 EACH</u>

~~(10-1-82)~~(10-1-98)T

04. Medical Assistance with "Spend Down". ~~Refugees~~ An applicant for Refugee Medical Assistance

whose countable income exceeds the AFDC payment standard may also become eligible for medical assistance under certain conditions. A special provision, for refugees only, will allow those refugees whose income exceeds the AFDC payment standard to apply their income above the payment standard to their medical costs and thus "spend down" to the AFDC eligibility level. This "spend down" will be computed on a quarterly basis; the quarter begins with the month of application. Compute the amount by which the refugee's income exceeds the AFDC payment standard on a monthly basis using the best estimate of income to be received during the quarter and multiply the monthly excess by three (3) to determine the quarterly "spend down". ~~(10-1-82)~~(10-1-98)T

05. Counting Income and Resources for Refugee Medical Assistance with a "Spend Down". (7-1-93)
  - a. AFDC policy determines which income must be counted, excluded, or deducted, except that a refugee is not entitled to the thirty dollars (\$30) and one-third (1/3) disregard or the thirty dollar (\$30) disregard must not be allowed. (12-31-91)
  - b. The AFDC payment standard applicable for the size of family unit determines the amount to which an individual or family must "spend down" to be eligible for refugee medical assistance. (7-1-89)
  - c. AFDC policy determines which resources must be counted or excluded for a refugee unit which must meet a medical "spend down". (10-1-82)
  - d. Total countable resources of the assistance unit must not exceed one thousand dollars (\$1,000). (7-1-89)
  - e. No financial resources which are not available to the refugee, including resources remaining in his homeland, are to be considered in determining eligibility for medical assistance. (6-1-81)
  - f. The income and resources of sponsors, and the in-kind services and shelter provided to refugees by their sponsors, will not be considered in determining eligibility for medical assistance. A shelter allowance must not be given for any in-kind shelter provided. (6-1-81)
06. Financially Responsible Relatives. (6-1-81)
  - a. The Department must consider the income and resources of nonrefugee spouses or parents as available to the refugee whether or not they are actually contributed, if they live in the same household. (6-1-81)
  - b. If the nonrefugee spouse or parent does not live with the individual, the Department must consider income and resources that are actually contributed by the spouse or parent as available to the refugee. (6-1-81)
07. Deduction of Incurred Medical Expenses. If countable income exceeds the AFDC income standard, the Department must deduct from income, in the following order, incurred medical expenses that are not subject to payment by a third party: (6-1-81)
  - a. Medicare and other health insurance premiums, deductibles, or coinsurance charges, incurred by the individual or family or financially responsible relatives. (10-1-82)
  - b. Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services that are recognized under State law but not covered under the scope of the Medical Assistance Program. (6-1-81)
  - c. Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services covered in the scope of the Medical Assistance Program. (6-1-81)
  - d. The Department may set reasonable limits on expenses to be deducted from income under Subsections 400.07.a. and 400.07.b. (12-31-91)
08. Determining Eligibility for Medical Assistance for Refugees Who Must Meet a "Spend Down". The refugee ~~recipient~~ applicant must provide verification of expenses incurred pursuant to Subsection 400.07. If the

~~recipient applicant~~ has medical coverage from a third party, he must verify that charges will not be paid by this third party by providing an Explanation of Benefits or other written statement from the third party. ~~(12-31-91)~~(10-1-98)T

a. As the ~~recipient applicant~~ submits medical expenses, the charges should be added in the order listed in Subsection 400.07 and then under Subsection 400.07.c. in chronological order by the date of service. ~~(12-31-91)~~(10-1-98)T

b. When the charges equal or exceed the amount of the "spend down," the ~~recipient applicant~~ becomes eligible for Medical Assistance. ~~(6-1-81)~~(10-1-98)T

c. The date of eligibility is the date of service on the last bill which is covered under the scope of the Medical Assistance Program. (6-1-81)

d. It is the responsibility of the Case Manager to determine when the "spend down" has been met. (10-1-98)T

09. Issuing a Medical Card to a Refugee Who Must Meet a "Spend Down". A Medical Card will not be issued until the ~~recipient applicant~~ has met the "spend down". The dates on the Medical Card under "Valid Only During" will be the date the ~~recipient applicant~~ becomes eligible for Medicaid benefits "to" the last day of the last month in the quarter for which the "spend down" has been determined. ~~(10-1-82)~~(10-1-98)T

10. ~~Extended Medicaid~~. An assistance unit which becomes ineligible for refugee medical assistance because of increased earnings from employment of a member of the unit, is entitled to ~~an extension, up to four (4) months, of non-spend down refugee medical assistance. Extended refugee medical assistance must not be extended beyond a through the~~ refugee's eighth month in the U.S. ~~(10-28-93)~~(10-1-98)T



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)**  
**DOCKET NO. 16-0308-9802**

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

**EFFECTIVE DATE:** The amendments to the temporary rule are effective October 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 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 Sections 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:** Section 371 of the proposed rules has 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 October 7, 1998 Administrative Bulletin, Volume 98-10, pages 180 through 184.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 6th day of January, 1999.

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 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 98-10, October 7, 1998,  
pages 180 through 184.**

**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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**THE FOLLOWING IS TEXT OF DOCKET NO. 16-0308-9802**

**371. AT-RISK ELIGIBILITY CRITERIA.**

The individual must meet the criteria in Subsections 371.01 through 371.104. ~~(10-1-98)T~~(10-1-98)T

01. Eligible Individual. The individual must be a parent or a caretaker relative with the child in the home, or must be a pregnant woman. (10-1-98)T

02. Need for Work-Related Services. The individual must be in need of work-related services and be unemployed or underemployed. (10-1-98)T

03. Income Limit. The family's income must be below two hundred percent (200%) of the federal poverty guidelines. The individual must meet the income criteria for only the first month to receive at-risk services for up to ninety (90) days. (10-1-98)T

04. Resource Limit. The family's resources must be such that he cannot meet an emergent need, or is unable to meet the emergent need because of circumstances beyond his control. (10-1-98)T

05. Citizenship and Legal Non-Citizen. The individual must be a citizen or must meet the legal non-citizenship requirements of Section 131. (10-1-98)T

06. SSN. An SSN must be provided for the individual. (10-1-98)T

07. Residence. The individual must live in the State of Idaho and must not be a resident of another state. (10-1-98)T

08. TANF Restrictions. The individual cannot be eligible for or receive TANF benefits. The individual cannot receive at-risk services if he has received twenty-four (24) months of TAFI benefits or has received five (5) years of TANF benefits. The individual cannot be receiving TANF Extended Cash Assistance. (10-1-98)T

09. Twelve (12) Month Restriction. If the family received a TANF one-time cash payment or Emergency Assistance to Needy Families with Children payment within the past twelve (12) months the individual cannot receive at-risk services. If an individual received at-risk services within the past twelve (12) months the individual cannot receive at-risk services. (10-1-98)T

10. JSAP Restriction. The individual cannot receive at-risk services while receiving JSAP services. (10-1-98)T

11. Controlled Substance Felons. Felons convicted after August 22, 1996, under federal or state law of any offense classified as a felony that involves the possession, use or distribution of a controlled substance cannot receive at-risk services. (10-1-98)T

12. Fleeing Felons. Felons who are fleeing to avoid prosecution, custody or confinement after conviction of a felony or an attempt to commit a felony cannot receive at-risk services. (10-1-98)T

13. Parole Violation. Felons who are violating a condition of probation or parole imposed for a federal

or state felony cannot receive at-risk services.

(10-1-98)T

14. Fraud. Individuals convicted in a federal or state court of fraudulently misrepresenting residence to get TANF, AABD, Food Stamps, Medicaid, or SSI, from two (2) or more states at the same time, cannot receive at-risk services for ten (10) years from the date of conviction.

(10-1-98)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)**

**DOCKET NO. 16-0308-9803**

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

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 7, 1998 Administrative Bulletin, Volume 98-10, page 185.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 6th day of January, 1999.

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 08**

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

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998, page 185.**

**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. 16-0309-9810**

**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 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 67-5224, 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(b), Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 7, 1998 Administrative Bulletin, Volume 98-10, pages 231 through 236.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jan Cheever, (208) 364-1889.

DATED this 6th day of January, 1999.

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 98-10, October 7, 1998,  
pages 231 through 236.**

**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. 16-0309-9801**

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

**EFFECTIVE DATE:** The amendments to 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 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 67-5224, 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 56-202(g), Idaho Code.

**DESCRIPTIVE SUMMARY:** Section 112 of the proposed rules have been amended 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 October 7, 1998 Administrative Bulletin, Volume 98-10, pages 186 through 202.

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

DATED this 6th day of January, 1999.

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 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 98-10, October 7, 1998,  
pages 186 through 202.**

**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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**THE FOLLOWING IS 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 Medicaid and Family and Community Services. (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.g. All the following areas must be evaluated and addressed: (7-1-94)(1-1-98)T

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 Subsections 112.04.a. through 112.04.f.g. The case plan must include, at a minimum: ~~(7-1-94)~~(1-1-98)T

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 in accordance with Subsections 112.04.a. through 112.04.g. (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; (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; (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~~(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; (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~~14, Idaho Code. ~~(1-1-98)T~~(1-1-98)T

j. 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)

k. 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. (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~~ direction of a licensed physician. ~~(11-10-81)~~ (1-1-98)T

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 qualifications: (1-1-98)T
- i. Psychiatrist, M.D.; or (11-10-81)
  - ii. Physician, M.D.; or (11-10-81)
  - iii. Licensed Psychologist; or (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/Independent Practice; or (1-1-98)T
  - viii. Licensed Professional Counselor - Private Practice Licensure (LPC-P); or (1-1-98)T
  - vii. Certified Psychiatric Nurse, R.N., as described in Subsection 112.04.b.; or (1-1-98)T
  - viii. Licensed Social Workers who were employed by the clinic prior to February 27, 1998; or ~~(1-1-98)T~~(1-1-98)T
  - ix. Licensed Registered Nurse, R.N. who was employed by the clinic prior to February 27, 1998; or ~~(1-1-98)T~~(1-1-98)T
  - ix. Registered Occupational Therapist, O.T.R.; ~~or~~ ~~(1-1-98)T~~(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 and plan development is reimbursable if conducted by a primary therapist who, at a minimum, has one (1) or more of the following qualifications: ~~(1-1-98)T~~(1-1-98)T
    - i. Licensed Psychologist; or (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; Licensed Social Worker; or ~~(1-1-98)T~~(1-1-98)T
    - iv. Certified Psychiatric Nurse, R.N.; or (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.; or ~~(1-1-98)T~~(1-1-98)T
- vii. Licensed Social Worker (not to include plan development); or (1-1-98)T
- viii. Registered Nurse (not to include plan development). (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 and care plan development 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)~~(1-1-98)T
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. Collateral contact may be provided if included on care plan. (1-1-98)T
- de. 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; or (1-1-98)T
  - iv. Psychologist extender, registered with the Bureau of Occupational Licenses; or (1-1-98)T
  - v. Licensed Certified Social Worker or Licensed Certified Social Worker - Private Practice; or (1-1-98)T
  - vi. Licensed Professional Counselor - Private Practice Licensure; or (1-1-98)T
  - vii. A licensed social worker who was employed by the clinic prior to February 27, 1998; or (1-1-98)T
  - viii. Certified Psychiatric Nurse, R.N.; or ~~(1-1-98)T~~(1-1-98)T
  - ix. A Registered Nurse, R.N., who was employed by the clinic prior to February 27, 1998. (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 qualifications listed in Subsection 115.01.d. (1-1-98)T
- 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)

**(BREAK IN CONTINUITY OF SECTIONS)**

**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; 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 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 with the target population. ~~(1-1-98)T~~(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. (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  
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**

**DOCKET NO. 16-0309-9807**

**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 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 67-5224, 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 56-202(d), Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 7, 1998 Administrative Bulletin, Volume 98-10, pages 203 through 213.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Russell C. Spearman, (208) 364-1842.

DATED this 6th day of January, 1999.

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 98-10, October 7, 1998,  
pages 203 through 213.**

**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. 16-0309-9808**

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

**EFFECTIVE DATE:** The amendments to the temporary rule are effective November 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 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 67-5224 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(b), Idaho Code.

**DESCRIPTIVE SUMMARY:** The 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 October 7, 1998 Administrative Bulletin, Volume 98-10, pages 214 through 229.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Lorraine Hutton at, (208) 346-1835.

DATED this 6th day of January, 1999.

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 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 98-10, October 7, 1998, pages 214 through 229.**



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

**THE FOLLOWING IS TEXT OF DOCKET NO. 16-0309-9808**

**610. CRITERIA FOR DETERMINING ICF/MR LEVEL OF CARE.**

To meet Title XIX entitlement for intermediate care for persons with mental retardation (ICF/MR level of care), and be eligible for services provided in an Intermediate Care Facility for the Mentally retarded (ICF/MR), or receive services under one of Idaho's programs to assist individuals with mental retardation or a related condition to avoid institutionalization in an ICF/MR. (11-1-98)T

01. Diagnosis. Persons must be financially eligible for Medicaid; must have a primary diagnosis of mental retardation or have a related condition defined in Section 66-402, Idaho Code; and persons must qualify based on functional assessment, maladaptive behavior, a combination of both, or medical condition. (11-1-98)T

02. Active Treatment. Persons living in an ICF/MR, must require and receive intensive inpatient active treatment as defined in ~~Subsection 48651-10~~, to advance or maintain his functional level. ~~(11-1-98)T~~ (11-1-98)T

03. Must Require Certain Level of Care. Persons living in the community must require the level of care provided in an ICF/MR, including active treatment, and in the absence of available intensive alternative services in the community, would require institutionalization in the near future. (11-1-98)T

04. Care for a Child. The department may provide Medicaid to a child (eighteen (18) years of age or younger), who would be eligible for Medicaid if they were in a medical institution and who are receiving, while living at home, medical care that would be provided in a medical institution, if the Department determines that the child requires the level of care provided in an ICF/MR, NF, or hospital. (11-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**614. CRITERION 3 - COMBINATION FUNCTIONAL/MALADAPTIVE BEHAVIORS.**

Persons may qualify for ICF/MR level of care if they display a combination of Criterion 1 and 2 at a level that is significant and it can be determined they are in need of the level of services provided in an ICF/MR, including active treatment services. Significance would be defined as: (11-1-98)T

01. Persons Sixteen Years of Age or Older. For persons sixteen (16) years of age or older, an overall age equivalency ~~that falls between seven (7) and up to seven and one half (7 1/2) years inclusive~~ is significant in the area of functionality when combined with a General Maladaptive Index on the Woodcock Johnson SIB ~~between up to minus seventeen (-17), minus twenty-two (-22) inclusive; or~~ ~~(11-1-98)T~~ (11-1-98)T

02. Persons Under Sixteen (16) Years Old. For persons below sixteen (16) years of age an overall age equivalency between forty-four percent (44%) and forty seven percent(47%) of their chronological age is considered significant when combined with a General Maladaptive Index on the Woodcock Johnson SIB between minus seventeen (-17), and minus twenty-two (-22) inclusive; or (11-1-98)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0309-9809**

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

**EFFECTIVE DATE:** The amendments to the temporary rule are effective August 5, 1998 and September 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 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 Sections 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:** Sections 003 and 119 of the 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 October 7, 1998 Administrative Bulletin, Volume 98-10, pages 71 through 83.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Lorraine Hutton at 364-1835.

DATED this 6th day of January, 1999.

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 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 98-8, August 5, 1998, pages 71 through 83.**

**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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**THE FOLLOWING IS TEXT OF DOCKET NO. 16-0309-9809**

**003. DEFINITIONS.**

For the purposes of these rules, the following terms will be used, as defined below: (11-10-81)

01. Abortion. The medical procedure necessary for the termination of pregnancy endangering the life of the woman, or the result of rape or incest, or determined to be medically necessary in order to save the health of the woman. This Subsection is effective retroactively from October 1, 1993. (2-17-94)

02. Access Unit (ACCESS). Access to Care Coordination, Evaluation, Services and Supports. A regional multidisciplinary, transdivisional unit that has the responsibility of determining eligibility, authorizing services, and assuring quality for services and supports for individuals with developmental disabilities. (7-1-95)

03. Ambulatory Surgical Center (ASC). Any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization, and which is certified by the U.S. Department of Health and Human Services as an ASC. (7-1-97)

04. Bill. The itemized cost of all services provided to one (1) recipient on a single claim form. (11-10-81)

05. Bureau. The Bureau of Medicaid Policy and Reimbursement within the Division of Medicaid, Idaho Department of Health and Welfare, which has the responsibility for administration of the Medical Assistance Program for the state of Idaho. (7-1-97)

06. Bureau of Systems and Operations. A Bureau of the Division of Medicaid charged with the responsibility of investigation and seeking prosecution of cases involving Medicaid fraud. (7-1-97)

07. Buy-In Coverage. The amount the State pays for Part B of Title C XVIII on behalf of the A/R.3 (11-10-81)

08. Category I Sanctions. Less severe administrative sanctions, which can be employed concurrently, which neither require notification nor are subject to appeal unless specifically allowed. (11-10-81)

09. Category II Sanctions. Severe administrative sanctions which are appealable as provided for in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (7-1-97)

10. Central Office. The administrative headquarters for the Idaho Department of Health and Welfare which are located in the State Office Building (State Towers), 450 West State Street, Boise, Idaho 83720. (11-10-81)

11. Certified Registered Nurse Anesthetist (CRNA). A Registered Nurse qualified by advanced training in an accredited program in the specialty of nurse anesthesia to manage the care of the patient during the administration of anesthesia in selected surgical situations. (7-1-97)

12. Claim. An itemized bill for services rendered to one (1) recipient by a provider submitted on any of the following Department claim forms: (11-10-81)

- a. DHW PH 3-80, "Physician Invoice" or such other claim form as may be prescribed by the Department; or (11-10-81)
- b. DHW 03-80, "Title XIX Pharmacy Claim"; or (11-10-81)
- c. DHW-AD78, "Adjustment Request"; or (11-10-81)
- d. DHW OP REV 4-80, "Hospital Out-patient"; or (11-10-81)
- e. DHW IP 3-80, "Hospital In-patient"; or (11-10-81)
- f. DHW 0137, "Attending Dentist's Statement"; or (11-10-81)
- g. DHW NH 3-80, "Nursing Home Statement"; or (11-10-81)
- h. HW-0034 "Consent Form" for sterilization procedures. (11-10-81)
13. Collateral Contacts. Contacts made with a parent, guardian, or other individual having a primary relationship to the patient by an appropriately qualified treatment professional. The contact must be ordered by a physician, contained in the treatment plan, directed at the medical treatment of the patient, and documented in the progress notes or continuous service record. (10-6-88)
14. Community Living Home. A licensed ICF/MR facility of eight (8) beds or less that has converted to a group home to provide residential habilitation services to developmentally disabled waiver recipients. Room and board is not included in the reimbursement rate. (7-1-95)
15. Contraception. The provision of drugs or devices to prevent pregnancy. (1-16-80)
16. Department. The state of Idaho Department of Health and Welfare (DHW). (11-10-81)
17. Director. The Director of the Idaho Department of Health and Welfare. (11-10-81)
18. Durable Medical Equipment (DME). Equipment other than prosthetics or orthotics which can withstand repeated use by one or more individual, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of an illness or injury, is appropriate for use in the home, and is reasonable and necessary for the treatment of an illness or injury for a MA recipient. (11-1-86)
19. Educational Services. Services which are provided in buildings, rooms or areas designated or used as a school or as educational facilities; which are provided during the specific hours and time periods in which the educational instruction takes place in the normal school day and period of time for these students; and which are included in the individual educational plan for the recipient or required by federal and state educational statutes or regulations; are not "related services" as listed in Sections 119 and 120 of these rules; and such services are provided to school age individuals as defined in Section 33-201, Idaho Code. (8-5-98)T
20. Eligibility Manuals. IDAPA 16.03.01, "Rules Governing Eligibility for Medicaid for Families and Children," and IDAPA 16.03.05, "Rules Governing Eligibility for the Aged, Blind and Disabled". (7-1-97)
21. Emergency. Any situation arising in the medical condition of a patient, which, after applying the prevailing medical standards of judgement and practice within the community requires immediate medical intervention. All obstetrical deliveries are considered emergencies. (10-29-92)
22. Endangerment of Life. A condition where, in the opinion of two (2) licensed physicians, a pregnant woman may die or suffer severe and long lasting physical health damage if the fetus is carried to term. (1-16-80)
23. Health Authority. An authorized official of any of the seven (7) Idaho District Health Departments or their satellite centers. (1-16-80)

24. Home Health Services. Services ordered by a physician and performed by a licensed nurse, registered physical therapist, or home health aide as defined in IDAPA 16.03.07, Subsection 002.11, "Rules for Proprietary Home Health Agencies". (7-1-97)
25. In-patient Hospital Services. Services that are ordinarily furnished in a hospital for the care and treatment of an in-patient under the direction of a physician or dentist except for those services provided in mental hospitals. (11-10-81)
26. In-State Care. Medical services provided within the Idaho border or in counties bordering Idaho are considered to be in-state, excluding long term care. (2-5-93)
27. Inspection of Care Team (IOCT). An interdisciplinary team which provides inspection of care in intermediate care facilities for the mentally retarded approved by the Department as providers of care for eligible medical assistance recipients. Such a team is composed of: (7-1-94)
- a. At least one (1) registered nurse; and (7-1-94)
  - b. One (1) qualified mental retardation professional; and when required, one (1) of the following: (7-1-94)
    - i. A consultant physician; or (7-1-94)
    - ii. A consultant social worker; or (7-1-94)
    - iii. When appropriate, other health and human services personnel responsible to the Department as employees or consultants. (7-1-94)
28. Interested Physician. (11-10-81)
- a. A physician who performs a Medicaid funded abortion for a fee; or (11-10-81)
  - b. A physician who is related by blood or marriage to another physician performing a Medicaid funded abortion. (11-10-81)
29. Intermediate Care Facility Services. Those services furnished in an intermediate care facility as defined in 42 CFR 440.150, but excluding services provided in a Christian Science Sanatoria. (11-10-81)
30. Law Enforcement Authority. An agency recognized by the state of Idaho in enforcement of established state and federal statutes. (11-10-81)
31. Legend Drug. A drug that requires by federal regulation or state rule, the order of a licensed medical practitioner before dispensing or administration to the patient. (11-10-81)
32. Licensed Psychologist. An individual who is licensed to practice psychology under Chapter 23, Title 54, Idaho Code. (10-6-88)
33. Licensed, Qualified Professionals. Individuals licensed, registered, or certified by national certification standards in their respective discipline, or otherwise qualified within the state of Idaho. (11-10-81)
34. Lock-in Program. An administrative sanction, required of recipients found to have misused the services provided by the Medical Assistance Program, requiring the recipient to select one (1) provider in the identified area(s) of misuse to serve as the primary provider. (11-10-81)
35. Medical Care Treatment Plan. The problem list, clinical diagnosis, and treatment plan of care administered by or under the direct supervision of a physician. (11-10-81)
36. Medical Necessity. A service is medically necessary if: (7-1-98)

a. It is reasonably calculated to prevent, diagnose, or treat conditions in the client that endanger life, cause pain, or cause functionally significant deformity or malfunction; and (7-1-98)

b. There is no other equally effective course of treatment available or suitable for the client requesting the service which is more conservative or substantially less costly. (7-1-98)

c. Medical services shall be of a quality that meets professionally recognized standards of health care and shall be substantiated by records including evidence of such medical necessity and quality. Those records shall be made available to the Department upon request. (7-1-98)

37. **Medical Supplies.** Items excluding drugs and biologicals and equipment furnished incident to a physician's professional services commonly furnished in a physician's office or items ordered by a physician for the treatment of a specific medical condition. These items are generally not useful to an individual in the absence of an illness and are consumable, nonreusable, disposable, and generally have no salvage value. Surgical dressings, ace bandages, splints and casts, and other devices used for reduction of fractures or dislocations are considered supplies. (11-1-86)

38. **Morbid Obesity.** The condition of a person who exceeds ideal weight by more than one hundred (100) pounds and who has significant medical complications directly related to weight gain. (7-1-97)

39. **Non-legend Drug.** Any drug the distribution of which is not subject to the ordering, dispensing, or administering by a licensed medical practitioner. (11-10-81)

40. **Nurse Midwife.** A registered nurse (RN) who is currently licensed to practice in Idaho, who meets applicable standards as found in the Idaho Nurse Practice Act, Rules and Minimum Standards promulgated by the Idaho State Board of Nursing, and who meets one of the following provisions: (11-10-81)

a. Is currently certified as a Nurse Midwife by the American College of Nurse Midwives; or (11-10-81)

b. Has satisfactorily completed a formal educational program of at least one (1) academic year that: (11-10-81)

i. Prepares a RN to furnish gynecological and obstetrical care to women during pregnancy, delivery and postpartum, and care to normal newborns; (11-10-81)

ii. Upon completion, qualifies a RN to take the certification examination offered by the American College of Nurse Midwives; (11-10-81)

iii. Includes at least four (4) months, in the aggregate, of classroom instruction and a component of supervised clinical practice; and (11-10-81)

iv. Awards a degree, diploma, or certificate to persons who successfully complete the program. (11-10-81)

41. **Nurse Practitioner.** A registered nurse (RN) who is currently licensed to practice in this State, who meets applicable standards as found in the Idaho Nurse Practice Act, Rules and Minimum Standards promulgated by the Idaho State Board of Nursing, and who meets one (1) of the following provisions: (11-10-81)

a. Is currently certified as a Primary Care Nurse Practitioner by the American Nurses Association or by the National Board of Pediatric Nurse Practitioners and Associates, or by the Nurses Association of the American College of Obstetricians and Gynecologists; or (11-10-81)

b. Has satisfactorily completed a formal one (1) year academic year educational program that: (11-10-81)

- i. Prepares a RN to perform an expanded role in the delivery of primary care; (11-10-81)
  - ii. Includes at least four (4) months, in the aggregate, of classroom instruction and a component of supervised clinical practice; and (11-10-81)
  - iii. Awards a degree, diploma, or certificate to persons who successfully complete the program. (11-10-81)
42. Nursing Facility (NF). An institution, or distinct part of an institution, which is primarily engaged in providing skilled nursing care and related services for residents. The residents must require medical or nursing care, or rehabilitation services for injuries, disabilities, or sickness. An institution must provide, on a regular basis, health-related care and services to individuals; who because of their mental or physical condition require care and services above the level of room, board, and supervision; which are made available to them only through institutional facilities, not primarily for care and treatment of mental diseases. The institution is licensed in the state of Idaho pursuant to Section 39-1301, Idaho Code and is certified as a nursing facility pursuant to 42 CFR 405.1120 through 405.1136. (7-1-94)
43. Orthotic. Pertaining to or promoting the straightening of a deformed or distorted part. (10-1-91)
44. Orthotic and Prosthetic Professional. An individual certified or registered by the American Board for Certification in Orthotics and/or Prosthetics. (10-1-91)
45. Otologist. A licensed physician who specializes in the diagnosis and treatment of hearing disorders and diseases of the ear. (11-10-81)
46. Out-patient Hospital Services. Preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician or dentist to a patient not in need of hospital bed accommodation. (11-10-81)
47. Out-of-state Care. Medical service that is not provided in Idaho or bordering counties is considered out-of-state. Bordering counties outside Idaho are considered out-of-state for the purpose of authorizing long term care. (7-1-97)
48. Oxygen-Related Equipment. Equipment which is utilized or acquired for the routine administration of oxygen in the home. This includes oxygen tanks, regulators, humidification nebulizers, oxygen concentrators, and related equipment. Equipment which is used solely for the administration of medication into the lungs is excluded from this definition. (11-1-86)
49. Patient. The person undergoing treatment or receiving services from a provider. (11-10-81)
50. Physician. A person possessing a Doctorate of Medicine degree or a Doctor of Osteopathy degree and licensed to practice medicine by a state or United States territory. (10-1-91)
51. Physician's Assistant. A person who is licensed by the Idaho Board of Medicine and who meets at least one (1) of the following provisions: (7-1-97)
- a. Is currently certified by the National Commission on Certification of Physician Assistants to assist primary care physicians; or (11-10-81)
  - b. Has satisfactorily completed a program for preparing physician's assistants that: (11-10-81)
    - i. Was at least one (1) academic year in length; and (11-10-81)
    - ii. Consisted of supervised clinical practice and at least four (4) months, in the aggregate, of classroom instruction directed toward preparing students to deliver health care; and (11-10-81)
    - iii. Was accredited by the American Medical Association's Committee on Allied Health Education and

- Accreditation. (11-10-81)
52. Plan of Care. A written description of medical, remedial and/or rehabilitative services to be provided to a recipient, developed by or under the direction and written approval of a physician. Medications, services and treatments are identified specifically as to amount, type and duration of service. (10-6-88)
53. Premium or Subscription Charge. The per capita amount paid by the Department for each eligible MA recipient enrolled under a contract for the provisions of medical and rehabilitative care and services whether or not such a recipient receives care and services during the contract period. (11-10-81)
54. Property. The homestead and all personal and real property in which the recipient has a legal interest. (11-10-81)
55. Prosthetic Device. Replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts profession within the scope of his practice as defined by state law to:
- a. Artificially replace a missing portion of the body; or (10-1-91)
  - b. Prevent or correct physical deformities or malfunctions; or (10-1-91)
  - c. Support a weak or deformed portion of the body. (10-1-91)
  - d. Computerized communication devices are not covered under the definition of a prosthetic device. (8-5-98)T
56. Provider. Any individual, organization or business entity furnishing medical goods or services in compliance with this chapter and who has applied for and received a provider number, pursuant to Section 020, and who has entered into a written provider agreement, pursuant to Section 040. (7-1-97)
57. Provider Agreement. An agreement between the provider and the Department, entered into pursuant to Section 040. (12-31-91)
58. Provider Reimbursement Manual. IDAPA 16.03.10, "Rules Governing Provider Reimbursement in Idaho". (7-1-97)
59. Psychology Assistant. An individual who practices psychology under the supervision of a licensed psychologist when required under Chapter 23, Title 54, Idaho Code, and Section H of the "Rules of the Idaho State Board of Psychologist Examiners". (7-1-94)
60. Recipient. An individual who is receiving Medical Assistance. (11-10-81)
61. Recreational Therapy (Services). Those activities or services that are generally perceived as recreation such as, but not limited to, fishing, hunting, camping, attendance or participation in sporting events or practices, attendance at concerts, fairs or rodeos, skiing, sightseeing, boating, bowling, swimming, training for Special Olympics, and special day parties (birthday, Christmas, etc.). (10-6-88)
62. Regional Nurse Reviewer (RNR). A registered nurse who reviews and makes determinations on applications for entitlement to and continued participation in Title XIX long term care for the Department. (7-1-94)
63. Social Security Act. 42 USC 101 et seq., authorizing, in part, federal grants to the states for medical assistance to low-income persons meeting certain criteria. (11-10-81)
64. Specialized Family Home. Living situation where a maximum of two (2) waiver recipients who do not require a skilled nursing service live with a provider family of residential habilitation services. (7-1-95)
65. Speech/Language Pathology and Audiology Services. Diagnostic, screening, preventative, or



corrective services provided by ~~or under the direction of~~ a speech pathologist or audiologist, for which a patient is referred by a physician or other practitioner of the healing arts within the scope of his or her practice under state law. ~~The cost of equipment needed by the practitioner to provide an evaluation or therapy is included in the therapy reimbursement rate.~~ Speech, hearing and language services do not include equipment needed by the patient such as communication devices or environmental controls. ~~(8-5-98)F(9-1-98)T~~

- 66. Subluxation. A partial or incomplete dislocation of the spine. (11-10-81)
- 67. Supervision. Procedural guidance by a qualified person and initial direction and periodic inspection of the actual act, at the site of service delivery. (6-21-90)
- 68. Title XVIII. That program established by the 1965 Social Security Act authorizing funding for the Medicare Program for the aged, blind, and disabled. The term is interchangeable with "Medicare". (11-10-81)
- 69. Title XIX. That program established by the 1965 Social Security Act authorizing the Medical Assistance Program, commonly referred to as "Medicaid", which is jointly financed by the federal and state governments and administered by the states. The term is interchangeable with "Medicaid". (11-10-81)
- 70. Third Party. Includes a person, institution, corporation, public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a recipient of medical assistance. (11-10-81)
- 71. Transportation. The physical movement of a recipient to and from a medical appointment or service by the recipient, another person, taxi or common carrier. (10-6-88)
- 72. Utilization Control (UC). A program of prepayment screening and annual review by at least one (1) Regional Nurse Reviewer to determine the appropriateness of medical entitlement and the need for continued medical entitlement of applicants/recipients to Title XIX benefits in a NF. (7-1-94)
- 73. Utilization Control Team (UCT). A team of Regional Nurse Reviewers which conducts on-site reviews of the care and services in the NFs approved by the Department as providers of care for eligible medical assistance recipients. (7-1-94)
- 74. Vocational Services. Services or programs which are directly related to the preparation of individuals for paid or unpaid employment. The test of the vocational nature of the service is whether the services are provided with the expectation that the recipient would be able to participate in a sheltered workshop or in the general work force within one (1) year. (10-6-88)

**(BREAK IN CONTINUITY OF SECTIONS)**

**119. HEALTH RELATED SERVICES PROVIDED BY IDAHO PUBLIC SCHOOL DISTRICTS OR OTHER PUBLIC EDUCATIONAL AGENCY (IDAHO INFANT TODDLER PROGRAM).**

The Department will pay school districts and other public educational agencies for covered rehabilitative and health related services pursuant to IDAPA 16.03.09, "Rules Governing Medical Assistance," including medical or remedial services provided by school districts or other cooperative service agencies (as defined in Section 33-317, Idaho Code) which have entered into a provider agreement with the Department. Medicaid payment is also contingent upon school districts following current procedural guidelines established by the Department of Health and Welfare, Division of Medicaid for health related services provided by school districts and other public educational agencies. ~~(9-1-98)F(9-1-98)T~~

- 01. Recipient Eligibility. To be eligible for medical assistance reimbursement for covered services, a student shall: (10-22-93)
  - a. Be identified as having an educational disability pursuant to IDAPA 08.02.03, "Rules Governing Thoroughness," Subsection 100.08.b., Department of Education standards for the education of disabled students or.

for children birth to three (3) years of age, being identified as needing early intervention services due to a developmental delay or disability in accordance with the eligibility criteria of the Idaho Infant Toddler Program; and  
~~(9-1-98)T(9-1-98)T~~

b. Have a current Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) which indicates the need for one (1) or more medically necessary health related services; and lists all Medicaid reimbursable services for which the school district or agency is requesting reimbursement; and ~~(9-1-98)T(9-1-98)T~~

c. Be less than twenty-two (22) years of age; and (10-22-93)

d. Be eligible for Medicaid and the service for which the school district is seeking reimbursement; ~~and~~  
~~(9-1-98)T(9-1-98)T~~

e. Be served by a school district or other public educational agency that is an enrolled medical assistance provider pursuant to these rules; ~~and~~  
~~(10-22-93)(9-1-98)T~~

f. Have a recommendation or referral from a physician or other practitioner of the healing arts, such as nurse practitioner or physician's assistant, for all Medicaid services for which the school district/other educational agency is receiving reimbursement. ~~(9-1-98)T~~

02. Evaluation and Diagnostic Services. (10-22-93)

a. Evaluations completed shall: (10-22-93)

i. Be recommended or referred by a physician or other practitioner of the healing arts, such as nurse practitioner or physician's assistant, who is licensed and approved by the state of Idaho to make such recommendations or referrals; and ~~(9-1-98)T(9-1-98)T~~

ii. Be conducted by qualified professionals for the respective discipline as defined in Subsections 119.05.a. through 119.05.n.; and (9-1-98)T

iii. Be directed toward a diagnosis and recommendations for services; and (9-1-98)T

iv. Recommend interventions to address each need. (10-22-93)

03. Reimbursable Services. Schools may bill for the following health related services provided to eligible students when provided under the recommendation of a physician: ~~(9-1-98)T(9-1-98)T~~

a. Annual IEP or IFSP plan development; ~~(9-1-98)T(9-1-98)T~~

b. Collateral contact. Consultation or treatment direction about the student to a significant other in the student's life. (9-1-98)T

c. Developmental therapy evaluation and treatment. Assessment, treatment and instruction of the student in the acquisition of developmental milestones and activities of daily living skills that the student has not gained at the normal developmental stages in his or her life, or is not likely to develop without training or therapy beyond age appropriate learning situations; Developmental therapy does not include tutorial activities or assistance with educational tasks associated with educational needs that result from the student's disability; ~~(9-1-98)T(9-1-98)T~~

d. Early Periodic Screening, Diagnosis, and Treatment (EPSDT) services. Services include age appropriate health history and health screening services; (9-1-98)T

e. Medical equipment and supplies. Includes medical equipment and supplies that are covered under the Idaho Medicaid program; (9-1-98)T

f. Nursing services. Includes skilled nursing services that must be provided by a licensed nurse.

(9-1-98)T

g. Occupational therapy evaluation and treatment. Does not include components of occupational therapy that deals with vocational assessment, training or vocational rehabilitation. (9-1-98)T

h. Personal Care Services. School based personal care services include medically oriented tasks having to do with the student's physical or functional requirements such as basis personal care and grooming; assistance with bladder or bowel requirements; assistance with eating (including feeding); or other tasks delegated by a Registered Nurse as defined in Subsections 146.01.a.i. through 146.01.a.iv. and 146.01.a.(1) through 146.01.a.(6). ~~(9-1-98)T~~(9-1-98)T

i. Physical therapy evaluation and treatment. (9-1-98)T

j. Psychological evaluation and therapy. (9-1-98)T

k. Psychosocial rehabilitation evaluation and treatment. Includes assistance in gaining and utilizing skills necessary to participate in school such as training in behavior control, social skills, communication skills, appropriate interpersonal behavior, symptom management, and coping skills. (9-1-98)T

l. Speech/Audiological evaluation and treatment. (9-1-98)T

m. Social history and evaluation. (9-1-98)T

n. ~~Transportation services. Includes reimbursement for mileage as well as the cost of an attendant when medically necessary for the health and safety of the student.~~ School districts can receive reimbursement for transporting a student when: ~~(9-1-98)T~~(9-1-98)T

i. The student requires special transportation assistance such as a wheelchair lift or an attendant when medically necessary for the health/safety of the student; and (9-1-98)T

ii. The student requires and receives another Medicaid reimbursable service, other than transportation, on the day that transportation is being provided; and (9-1-98)T

iii. Both the Medicaid covered service and the need for the special transportation are included on the student's IEP or IFSP. (9-1-98)T

o. Interpretive Services. Interpretive services are those services needed by a student who does not adequately speak or understand English and requires an interpreter to communicate with the professional or paraprofessional providing the student with a health related service. (9-1-98)T

i. Payment for interpretive services are limited to the specific time that the student is receiving the health related service. (9-1-98)T

ii. Both the Medicaid covered service and the need for interpretive services are included on the student's IEP or IFSP. (9-1-98)T

iii. Interpretive services would not be covered if the professional or paraprofessional providing services is able to communicate in the student's primary language. (9-1-98)T

04. Excluded Services. The following services are excluded from Medicaid payments to school based programs: (10-22-93)

a. Vocational services; and (10-22-93)

b. Educational services (other than health related services) or education-based costs normally incurred to operate a school and provide an education; and (9-1-98)T

- c. Recreational services. (10-22-93)
05. Provider Staff Qualifications. Medicaid will only reimburse for services provided by qualified staff. The following are the minimum qualifications for providers of covered services: (10-22-93)
- a. Annual IEP or IFSP plan development. Must include the professionals who completed the evaluations and recommendations for IEP or IFSP services. May only be billed when the IEP or IFSP includes reimbursable health related services. ~~(9-1-98)T~~(9-1-98)T
- b. Collateral contact. Must be provided by the appropriate professional for whom the consultation or treatment direction is needed. (9-1-98)T
- c. Developmental therapy evaluation and treatment. Must be provided by or under the direction of a developmental specialist as defined in IDAPA 16.04.11, "Rules and Minimum Standards for Developmental Disabilities Centers". (9-1-98)T
- d. EPSDT Screens. May be provided by a physician, physician extender, or EPSDT RN screener. (9-1-98)T
- e. Medical equipment and supplies. May be provided by providers with a DME provider agreement with the Department. (9-1-98)T
- f. Nursing services. Must be provided by a RN or LPN licensed to practice in Idaho. (9-1-98)T
- g. Occupational therapy evaluation and treatment. Must be provided by or under the supervision of an individual qualified and registered to practice in Idaho. (9-1-98)T
- h. Personal Care Services. Must be provided by a certified nurses aide (CNA), licensed RN or licensed LPN. When services are provided by a CNA, the CNA must be supervised by a RN. (9-1-98)T
- i. Physical therapy evaluation and treatment. Must be provided by an individual qualified and registered to practice in Idaho. (9-1-98)T
- j. Psychological therapy evaluation and treatment. Must be provided by: (9-1-98)T
- i. A licensed psychiatrist; (9-1-98)T
- ii. Licensed physician; (9-1-98)T
- iii. Licensed psychologist; (9-1-98)T
- iv. Psychologist extender registered with the Board of Occupational Licenses; (9-1-98)T
- v. Certified psychiatric nurse; (9-1-98)T
- vi. Certified school psychologist; (9-1-98)T
- vii. Licensed professional counselor with a private practice license; or (9-1-98)T
- viii. Licensed certified social worker. (9-1-98)T
- k. Psychosocial rehabilitation. Must be provided by: (9-1-98)T
- i. A licensed psychiatrist; (9-1-98)T
- ii. Licensed physician; (9-1-98)T

- iii. Licensed psychologist; (9-1-98)T
  - iv. Psychologist extender registered with the Board of Occupational Licenses; (9-1-98)T
  - v. Certified psychiatric nurse; (9-1-98)T
  - vi. Certified school psychologist; (9-1-98)T
  - vii. Licensed professional counselor with a private practice license; or (9-1-98)T
  - viii. Licensed certified social worker; ~~or~~ (9-1-98)T(9-1-98)T
  - ix. Psychosocial rehabilitaiton specialist. (9-1-98)T
- l. Speech/Audiological therapy evaluation and treatment. Must be provided by or under the direction of a speech pathologist or audiologist who possesses a certificate of clinical competence from the American Speech and Hearing Association; or have completed the educational requirements and work experience necessary for the certificate or have completed the academic program and is acquiring supervised work experience to qualify for the certificate. (9-1-98)T
- m. Social history and evaluation. Must be provided by a person who is licensed and qualified to provide social work in the state of Idaho; a registered nurse; psychologist; or M.D. (9-1-98)T
- n. Transportation. Must be provided by a individual who has a current Idaho driver's license and be covered under a vehicle liability insurance policy. (9-1-98)T
06. Paraprofessionals. Paraprofessionals, such as aides or therapy technicians, may be used by the school to provide developmental therapy; occupational therapy; physical therapy; and speech therapy if they are under the supervision of the appropriate professional. The services provided by paraprofessionals must be within the scope of practice of an aide or therapy technician as defined by the scope of practice of the therapy professional. The portions of the treatment plan which can be delegated to the paraprofessional must be identified in the IEP or IFSP. ~~(9-1-98)T~~(9-1-98)T
- a. Paraprofessionals shall not conduct student evaluations or establish the IEP or IFSP goals. ~~(9-1-98)T~~(9-1-98)T
  - b. The professional must have assessed the competence of the paraprofessional ~~(or aide)~~ to perform assigned tasks. ~~(10-22-93)~~(9-1-98)T
  - c. The paraprofessional, on a monthly basis, shall be given orientation and training on the program and procedures to be followed. (10-22-93)
  - d. The professional must reevaluate the student and adjust the treatment plan as their individual practice dictates. (10-22-93)
  - e. Any changes in the student's condition not consistent with planned progress or treatment goals necessitates a documented reevaluation by the professional before further treatment is carried out. (10-22-93)
  - f. If the paraprofessional works independently there shall be a review conducted by the appropriate professional at least once per month. This review will include the dated initials of the professional conducting the review. (10-22-93)
  - g. In addition to the above, if a paraprofessional is utilized to assist in the provision of actual physical therapy they may do so only when the following conditions are met: (10-22-93)
  - i. Student reevaluation must be performed and documented by the supervising PT every five (5) visits or once a week if treatment is performed more than once per day. (10-22-93)

ii. The number of PTAs utilized in any practice or site, shall not exceed twice in number the full time equivalent licensed PTs. (10-22-93)

07. Payment for Services. Payment for school based health related services must be in accordance with rates established by the Department. ~~(10-22-93)~~(9-1-98)T

a. Matching funds. School districts are responsible for certification of the state portion of the Medicaid payment. (9-1-98)T

b. Providers of services must accept as payment in full the Department's payment for such services and must not bill Medicaid recipient's for any portion of any charges. (9-1-98)T

~~ac.~~ Third party payment resources, not to include other school or agency resources, such as private insurance, must be exhausted before the Department is billed for services. Proof of billing other third party payers is required. ~~(10-22-93)~~(9-1-98)T

~~bd.~~ A contracted provider of the school program may not submit a separate claim to Medicaid as the performing provider for services provided under the school based program and codes. (10-22-93)

ee. Payment for school based related services will not be provided to students who are inpatients in nursing homes or hospitals. (10-22-93)

~~ef.~~ Failure to provide services for which reimbursement has been received or to comply with these rules and procedural guidelines established by the Department, will be cause for recoupment of the Federal share of payments for services, sanctions, or both. ~~(10-22-93)~~(9-1-98)T

eg. The provider will grant the Department immediate access to all information required to review compliance with these rules. ~~(10-22-93)~~(9-1-98)T

08. Record Requirements. In addition to the evaluations and maintenance of the Individualized Education Program (IEP) plan or Individualized Family Service Plan (IFSP), the following documentation must be maintained by the provider and retained for a period of two (2) years: ~~(9-1-98)~~(9-1-98)T

a. Name of student; ~~and~~ ~~(10-22-93)~~(9-1-98)T

b. Name and title of the person providing the service; ~~and~~ ~~(10-22-93)~~(9-1-98)T

c. Date, time, and duration of service; ~~and~~ ~~(10-22-93)~~(9-1-98)T

d. Place of service; ~~and~~ ~~(10-22-93)~~(9-1-98)T

e. Activity record completed at the time the service was provided which describes the service provided and the student's response to the service; ~~and~~ ~~(10-22-93)~~(9-1-98)T

f. Documented review of progress toward each service plan goal at least every one hundred twenty (120) days; and (10-22-93)

g. Documentation of qualifications of providers. (10-22-93)

09. Cooperation of Services. Each school district or public educational agency billing for Medicaid services shall act in cooperation with students' parents and with community and/or state agencies and professionals who provide like Medicaid services to the student. (9-1-98)T

a. For all students who are receiving Medicaid reimbursed services: School district/public educational agency shall ensure that parents are notified of the Medicaid services that the school/agency will be submitting for reimbursement in relationship to their child. The school district/public educational agency shall provide the student's

parent/guardian with a current copy of the child's IEP or IFSP and any pertinent addendums. The IEP/IFSP/addendum shall describe the Medicaid reimbursable service and list the type, amount and frequency of that service. (9-1-98)T

b. For students in the Healthy Connection Program: School districts/public educational agencies shall also provide to the Healthy Connection physician or practitioner of the healing arts a copy of the results of the evaluations that the physician/practitioner ordered, recommended or referred. A copy of the current IEP or IFSP which lists the therapies/services that resulted from the ordered evaluations, and quarterly progress notes for those therapies/services. Evaluations, IEPs or IFSPs, and progress notes shall be provided to the physician within thirty (30) days of completion. (9-1-98)T

c. For students who are also receiving like Medicaid services through other community and/or state agencies and professionals: Upon receiving a request for a copy of the evaluations or the current IEP or IFSP the school district/public educational agency will furnish the requesting agency or professional a copy of the IEP or IFSP or appropriate evaluation after obtaining consent for release of information from the student's parent/guardian. (9-1-98)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0309-9901**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective January 1, 1999.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 20, 1999.

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

**DESCRIPTIVE SUMMARY:** The rules are to adopt the current Idaho Medicaid Provider Handbook, Section three (3), Dental Guidelines as rule; and to bring the Department into compliance with current administrative procedures. To protect public health, safety or welfare. This change parallels current Medicaid procedures.

**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, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Dr. A. Riley Cutler, Dental Consultant, at (208) 364-1839.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 27, 1999.

DATED this 6th day of January, 1999.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
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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**THE FOLLOWING IS TEXT OF DOCKET NO. 16-0309-9901**

**125. DENTAL SERVICES.**

01. Dental Services ~~Listing~~. Dental services ~~include diagnostic, preventive, restorative treatment, relief of dental pain and are purchased from a licensed dentist. Unspecified procedures will not be covered unless preauthorized. The following specific procedures are included in dental services:~~ are provided for the relief of dental pain, prosthetic replacement, and the correcting of handicapping malocclusion and are purchased from a licensed



dentist or denturist. All medicaid dental services, limitations on specific services, excluded services, billing codes and payment policies are stated in the Idaho Medicaid Provider Handbook, Section 3, Dental Guidelines, dated December 1, 1998, which are incorporated herein by this reference. A Medicaid dental consultant will review requests for prior authorization, with accompanying documentation, to determine approval or denial. (10-1-91)(1-1-99)T

- a. ~~Initial oral exam; and~~ (10-1-91)
- b. ~~Recall; and~~ (10-1-91)
- e. ~~Full mouth x rays, including necessary bitewing x rays; and~~ (10-1-91)
- d. ~~Intra-oral periapical, single film, first; and~~ (10-1-91)
- e. ~~Intra-oral periapical, each additional film; and~~ (10-1-91)
- f. ~~Bitewings; and~~ (10-1-91)
- g. ~~Panographic survey; and~~ (12-14-92)
- h. ~~Prophylaxis, adult complex; and~~ (10-1-91)
- i. ~~Prophylaxis, child to age fifteen (15), simple; and~~ (10-1-91)
- j. ~~Topical application of fluoride exeluding prophylaxis; and~~ (10-1-91)
- k. ~~Space maintainer, fixed, unilateral band or crown type; and~~ (10-1-91)
- l. ~~Space maintainer, fixed, bilateral band or crown type; and~~ (10-1-91)
- m. ~~Amalgams; and~~ (10-1-91)
- n. ~~Retention pins; and~~ (10-1-91)
- o. ~~Silicate cement, per restoration; and~~ (10-1-91)
- p. ~~Aerylie or plastic; and~~ (10-1-91)
- q. ~~Composites; and~~ (10-1-91)
- r. ~~Crown, jacket, plastic; and~~ (10-1-91)
- s. ~~Crown, jacket, plastic — prefabricated, crown full — porcelain fused to nonprecious alloy; and~~ (10-1-91)
- t. ~~Crown, stainless steel; and~~ (10-1-91)
- u. ~~Dowel pin; and~~ (10-1-91)
- v. ~~Re-cement crown; and~~ (10-1-91)
- w. ~~Pulp cap; and~~ (10-1-91)
- x. ~~Pulpotomy; and~~ (10-1-91)
- y. ~~Root canal therapy; and~~ (10-1-91)
- z. ~~Apieceotomy, performed as separate surgical procedure;~~ (10-1-91)

aa.	Complete denture, upper; and	(10-1-91)
bb.	Complete denture, lower; and	(10-1-91)
cc.	Partial denture, upper or lower, with or without clasps, acrylic, flipper stayplate; and	(10-1-91)
dd.	Denture adjustments; and	(10-1-91)
ee.	Relining or rebasing upper or lower complete denture; and	(12-14-92)
ff.	Extraction, simple; and	(10-1-91)
gg.	Extraction, surgical erupted tooth; and	(10-1-91)
hh.	Extraction, surgical, soft tissue impaction; and	(10-1-91)
ii.	Extraction, surgical, partial bony impaction; and	(10-1-91)
jj.	Extraction, surgical, complete bony impaction; and	(10-1-91)
kk.	Palliative (emergency) treatment of dental pain, minor procedures; and	(10-1-91)
ll.	Pit and fissure sealants.	(10-1-91)
02.	Dental Services Limitations.	(7-1-93)
a.	All hospitalizations must have prior approval; and	(10-1-91)
b.	Any dental service not listed in the Benefit Schedule is not covered; and	(10-1-91)
e.	Restoration of primary lateral and central incisors after the fifth birthday are not allowed. Teeth numbers D, E, F, G, N, O, P, and Q are the nonallowed teeth; and	(10-1-91)
d.	Space maintainers after the tenth birthday are not a covered benefit; and	(10-1-91)
e.	Denture reline not allowed for six (6) month after original placement and then once in a two (2) year period.	(12-14-92)
f.	Denture construction no more frequent than every five (5) years; and	(10-1-91)
g.	Denture adjustments not allowed for six (6) months following placement by same dentist who provided denture.	(12-14-92)
h.	Full mouth x rays no more frequent than every three (3) years; and	(10-1-91)
i.	Panographic x rays no more frequent than every twelve (12) months; and	(10-1-91)
j.	A maximum of four (4) bitewing x rays allowed every six (6) months; and	(10-1-91)
k.	Restoration of the same tooth, same surface, no more than every two (2) years; and	(10-1-91)
l.	Initial oral exams allowed every twelve (12) months; and	(10-1-91)
m.	Recall exam allowed once every six (6) months; and	(10-1-91)
n.	Oral prophylaxis no more frequent than one (1) every six (6) months; and	(10-1-91)

- ~~o. Topical fluoride applications will be allowed every six (6) months; and (10-1-91)~~
- ~~p. Topical fluoride given as a fluoride paste prophylaxis will be paid as prophylaxis only according to patient's age; and (10-1-91)~~
- ~~q. Restorative services which are cosmetic in nature are not covered; and (10-1-91)~~
- ~~r. More than one (1) restoration in the same tooth surface is not covered; and (10-1-91)~~
- ~~s. Periodontal sealing and root planning covered once in a twelve (12) month period. (12-14-92)~~
- ~~t. Periodontal maintenance covered once in a six (6) month period. (12-14-92)~~
- ~~u. Acid etch as a separate procedure is not allowed; and (10-1-91)~~
- ~~v. Oral hygiene instruction is not a benefit; and (10-1-91)~~
- ~~w. Medicated bases or liners are not covered as a separate procedure from the restoration; and (10-1-91)~~
- ~~x. Local anesthetics fees are not covered as a separate charge; and (10-1-91)~~
- ~~y. Polishing and finishing charges are not covered as a separate charge; and (10-1-91)~~
- ~~z. Procedures not recognized by the American Dental Association are not covered; and (12-14-92)~~
- ~~aa. Root canal procedures are limited to permanent teeth; and (10-1-91)~~
- ~~bb. Fixed bridgework is not covered; and (10-1-91)~~
- ~~cc. Orthodontic services will be a benefit for EPSDT eligible children under age twenty-one (21) years only with preauthorization as determined by the handicapping malocclusion Index (DHEW Pub. #77-1644). (11-6-93)~~
- ~~dd. Orthodontic Services are not benefits for persons after their twenty-first (21st) birthday. (12-14-92)~~
- ~~ee. Occlusal sealants will be limited to permanent molars and premolars for recipients age six (6) years to sixteen (16) years. Service is also limited to once per tooth in a three (3) year period. (11-6-93)~~

02. Dentist Services, Payment, Covered Benefits, and Limitations. Referenced in Dental Guidelines, Introduction, Subsection Payment and Section Covered Benefits and Limitations, are all of the Medicaid dental benefits that may be provided by dentists. Within these headings are specific services, procedures, limitations, and exclusions: (1-1-99)T

- a. Customary Fees; (1-1-99)T
- b. Non covered Services; (1-1-99)T
- c. Overview; (1-1-99)T
- d. Diagnostics Procedures; (1-1-99)T
- e. Preventive Procedures; (1-1-99)T
- f. Restorative Procedures; (1-1-99)T

- g. Endodontics; (1-1-99)T
- h. Periodontics; (1-1-99)T
- i. Removable Prosthodontics; (1-1-99)T
- j. Maxillofacial Prosthetics; (1-1-99)T
- k. Fixed Prosthodontics; (1-1-99)T
- l. Oral Surgery; (1-1-99)T
- m. Orthodontics; (1-1-99)T
- n. Adjunctive General Services; (1-1-99)T
- o. PWC Codes; (1-1-99)T
- p. Tooth Number Codes; and (1-1-99)T
- q. Tooth Surface Codes. (1-1-99)T

03. ~~Denturist Services, Procedures Payment, Covered Benefits, and Limitations.~~ Dental service procedures are as follows: Referenced in Dental Guidelines, Denturist Policy Guidelines, Subsections Payment, Service Limitations and Procedure Codes, is a listing of all Medicaid denture and partial denture benefits that may be provided by denturists. Within these headings are the specific services, procedures, limitations and exclusions:

(10-1-91)(1-1-99)T

a. ~~If a dental provider determines that hospitalization is necessary for the dental treatment, a request in writing must be submitted to the Department prior to the hospitalization and written preauthorization received from the Department's dental consultant.~~ Payment.

(10-1-91)(1-1-99)T

b. ~~If, in the opinion of a dental provider, a condition exists such that orthodontic correction of a severely handicapping malocclusion is vital to the physical and emotional well being of the individual, a request in writing must be submitted to the Department for prior approval. Supporting evidence of need must be presented and is to include x-rays and plaster casts which demonstrate the severity of the malocclusion (See IDAPA 16.03.19, Subsection 025.02.z.).~~ Service Limitations.

(12-31-91)(1-1-99)T

c. ~~Unspecified procedures can be submitted for review to determine if the procedure can be pre-authorized. X Rays and written justification are required.~~ Procedure Codes.

(12-14-92)(1-1-99)T

04. ~~Dental Payment Procedure.~~ Idaho Medicaid Provider Handbook. The full text of the Idaho Medicaid Provider Handbook, section 3, Dental Guidelines may be obtained from the Idaho Department of Health and Welfare Division of Medicaid. A copy may be viewed at the Idaho State Supreme Court Law Library.

(12-31-91)(1-1-99)T

a. ~~The Department will pay the lower of either the billed charge or the state's maximum reimbursement rate (See Section 060);~~

(12-31-91)

b. All dental claims must be submitted on the American Dental Association (ADA) claim form.

(10-1-91)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.20 - RULES GOVERNING ELECTRONIC BENEFITS TRANSFER (EBT)**  
**OF PUBLIC ASSISTANCE AND FOOD STAMPS**

**DOCKET NO. 16-0320-9801**

**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 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 67-5224, 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 39-106(l), Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 7, 1998 Administrative Bulletin, Volume 98-10, pages 237 through 239.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 6th day of January, 1999.

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 20**

**RULES GOVERNING ELECTRONIC BENEFITS TRANSFER (EBT)**  
**OF PUBLIC ASSISTANCE AND FOOD STAMPS**

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

**The original text was published in the Idaho**  
**Administrative Bulletin, Volume 98-10, October 7, 1998,**  
**pages 237 through 239.**

**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**

**16.06.01 - RULES GOVERNING SOCIAL SERVICES**

**DOCKET NO. 16-0601-9601**

**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 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 16-1624, 16-1822, 16-1827, 16-2001, 16-2102, 39-105, 39-106, 39-7501, 56-202, 56-203B, 56-204, 56-204A, 56-803, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the August 5, 1998 Administrative Bulletin, Volume 98-8, page 84.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Anna Sever at (208) 334-5920.

DATED this 6th day of January, 1999.

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 06  
Chapter 01**

**RULES GOVERNING SOCIAL SERVICES**

**This chapter is being repealed in its entirety.**

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

**The original text was published in the Idaho Administrative Bulletin,  
Volume 98-8, August 5, 1998, page 84.**

**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**  
**16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES**  
**DOCKET NO. 16-0601-9802**

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

**EFFECTIVE DATE:** The amendments to the temporary rule are effective July 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 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 Sections 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) 16-1624, 16-1513, 16-2001, 16-2433, 39-105(l), 39-106(l)(a), 56-202(b), 56-203(b), 56-204(a), and 56-204A, Idaho Code.

**DESCRIPTIVE SUMMARY:** The 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. Section 644 of the rule has been added giving a detailed breakdown of a sliding scale fee. The Department is adding the specific breakdown regarding the parental share for out of home cares services. The change is based upon public feedback, and Federal interpretations of the Adoption and Safe Families Act of 1997 (P.L. 105-89), and from the public participation process.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the August 5, 1998 Administrative Bulletin, Volume 98-8, pages 89 through 139.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: Sections 643 and 644 outline how charges to parents will be determined based on their ability to pay consistent with the Children's Mental Health Services Act.

Fees associated with adoptions have been increased slightly to be more comparable with market rates.

Section 894 establishes monitoring fees that the Department can charge related to the supervision of Qualified Individuals working on adoptions (originally established that fees shall be paid per the code but did not set the fees).

Now monitoring fees for Home study or court report are fifty dollars (\$50).  
Monitoring fees for supervision report is thirty dollars (\$30).

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Anna Sever at (208) 334-5920.

DATED this 6th day of January, 1999.

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

**IDAPA 16**  
**TITLE 06**  
**Chapter 01**

**RULES GOVERNING FAMILY AND CHILDREN'S SERVICES**

**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 98-8, August 5, 1998, pages 89 through 139.**

**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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**THE FOLLOWING IS TEXT OF DOCKET NO. 16-0601-9802**

**010. DEFINITIONS AND ABBREVIATIONS.**

For the purposes of the rules contained in Idaho Department of Health and Welfare Rules, IDAPA 16.06.01, "Rules Governing Family and Children's Services," the following terms and abbreviations are used as defined herein:

(7-1-98)T

~~01. AFDC (Aid to Families with Dependent Children). Federal/state supported income maintenance program for persons with limited income and assets who are determined to be eligible by the Department's local offices. When used with regard to eligibility for social services, this term includes those who would have been eligible for AFDC and those persons whose needs are taken into account when determining their eligibility.~~ (7-1-98)T

~~021. AFDC-FC (Aid to Families with Dependent Children Foster Care). IV-E Foster Care. Child care provided in lieu of parental care in a foster home, children's agency or institution eligible to receive Aid to Dependent Children under Title IV-E of the Social Security Act.~~ (7-1-98)T(7-1-98)T

~~032. A/R. Applicant for or recipient of services.~~ (7-1-98)T

~~043. Adoption Assistance. Funds provided to adoptive parents of children who have special needs and/or could not be adopted without financial or medical assistance.~~ (7-1-98)T

~~054. Adoption Services. Protective service through which children are provided with permanent homes, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the birth parent-child relationship.~~ (7-1-98)T

~~065. Alternate Care. Temporary living arrangements, when necessary for a child to leave his own home, through a variety of foster care, respite care, residential treatment and institutional resources, in accordance with the protections established in public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980" as amended, the Child Protective Act, Section 16-1601 et seq., Idaho Code, and the Indian Child Welfare Act.~~ (7-1-98)T

~~076. Board. The Idaho State Board of Health and Welfare.~~ (7-1-98)T



087. Case Management. A change oriented service to families that assures and coordinates the provision of family risk assessment, case planning, treatment and other services, protection, advocacy, review and reassessment, documentation and timely closure of a case. (7-1-98)T

098. Case Plan. See "Family Plan". (7-1-98)T

109. Central Office. The state level administrative office of the Department of Health and Welfare located in Boise, Idaho. (7-1-98)T

140. Child Mental Health. All children under eighteen (18) shall be served who: (7-1-98)T

a. Are seriously emotionally disturbed or gravely impaired due to a serious mental illness; and (7-1-98)T

b. Present a significant risk of harm to themselves and/or significant risk of harm to others; and (7-1-98)T

c. Because of their mental illness are at risk for out-of-home placements or are currently in out-of-home placement and lack adequate resources to participate in their community non-public system of care. (7-1-98)T

d. Seriously emotionally disturbed children who are involuntarily committed to the Department for out-of-home placement shall be served without regard to income. (7-1-98)T

121. Child Mental Health Services. Services provided in response to the needs of seriously emotionally disturbed children and their families. These services are provided in accordance with the provisions of Section 16-2402 et seq., Idaho Code, the "Children's Mental Health Services Act". (7-1-98)T

132. Child Protection. All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare, including runaways who are harmed or threatened with harm by virtue of their status, through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing or shelter shall be served without regard to income. Developmentally disabled or seriously emotionally disturbed children who are committed to the Department for out-of-home placement shall be served without regard to income. (7-1-98)T

143. Child Protective Services. Services provided in response to potential, alleged or actual abuse, abandonment or neglect of individuals under the age of eighteen (18) in accordance with the provisions of Section 16-1601 et seq., Idaho Code, the "Child Protective Act". (7-1-98)T

154. Compact Administrator. The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-21-1 et seq., Idaho Code; "Interstate Compact on the Placement of Children," Section 16-1901 et seq., Idaho Code; or the "Interstate Compact on Mental Health," Section 66-1201 et seq., Idaho Code; or the "Interstate Compact on Adoption and Medical Assistance," Section 39-7501 et seq., Idaho Code. (7-1-98)T

165. Concurrent Planning. Planning which addresses a child's need for a permanent family by working toward family reunification while developing an alternative plan that will provide permanency for the child through adoption, guardianship, placement with a relative or other permanent placement. (7-1-98)T

176. DHW Regions. Seven (7) geographically defined regions which serve as administrative units for the delivery of social services through local Department local offices. (7-1-98)T

187. Day Care for Children. Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (7-1-98)T

198. Day Treatment Services. Intensive nonresidential services that include an integrated set of

educational, clinical, social, vocational and family interventions provided on a regularly scheduled, typically daily, basis. (7-1-98)T

~~20~~19. Department. The Idaho Department of Health and Welfare. (7-1-98)T

~~24~~0. Director. The Director of the Department of Health and Welfare or designee. (7-1-98)T

~~22~~1. Emergency Assistance To Families. Social services, crisis or crisis avoidance payments and placement services authorized by FACS social workers for Emergency Assistance eligible families to meet emergency need. (7-1-98)T

~~23~~2. Extended Family Member. As defined by the law, or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (7-1-98)T

~~24~~3. FFP. Federal Financial Participation. (7-1-98)T

~~25~~4. Family. Related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (7-1-98)T

~~26~~5. Family and Children's Services (FACS). Those programs and services directed to families and children, administered by the Department and provided in accordance with these rules. (7-1-98)T

~~27~~6. Family Assessment. An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and/or safety issues that threaten family integrity, unity or the ability to care for their members. (7-1-98)T

~~28~~7. Family Case Record. Compilation of all documents relating to a family's case. (7-1-98)T

~~29~~8. Family Centered Services. An approach to the delivery of social services that focuses on families rather than individuals. Services are based on assessment of the entire family and a negotiated family plan designed to strengthen and maintain the family, while ensuring the protection, well being and permanency of children. (7-1-98)T

~~30~~29. Family Plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders and/or leaders should be consulted early in the plan development. (7-1-98)T

~~34~~0. Family Services Worker. Any of the direct service personnel, including social workers, psychologists, counselors and family therapists, working in regional Family and Children's Services Programs. For purposes of pre-placement home studies, adoption home studies, reports to the court under the Termination and Adoption Acts, and Placement Supervision Reports, "family services workers" also include licensed counselors or psychologists, or individuals who have at least bachelor's degrees in social work, marriage and family therapy, or other social sciences. (7-1-98)T

~~32~~1. Field Office. A Department of Health and Welfare service delivery site. (7-1-98)T

~~33~~2. Goal. A statement of the long term outcome or plan for the child and family. (7-1-98)T

~~34~~3. Indian. Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (7-1-98)T

~~35~~4. Indian Child. Any unmarried person who is under the age of eighteen (18) who is: (7-1-98)T

a. A member of an Indian tribe, or (7-1-98)T

- b. Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. (7-1-98)T
365. Indian Child Welfare Act (ICWA). The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (7-1-98)T
376. Indian Child's Tribe. (7-1-98)T
- a. The Indian tribe in which an Indian child is a member or eligible for membership, or (7-1-98)T
- b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (7-1-98)T
387. Indian Tribe. Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (7-1-98)T
398. Information and Referral Services. A service which enables individuals to gain access to human services through providing accurate, current information on community and Department resources. While information and referral is not a separate service of the Department it is provided as a component of most social service programs. Information and referral services will be provided without regard to income. (7-1-98)T
4039. Interethnic Placement Act of 1996 (IEPA). IEPA prohibits delaying or denying the placement of a child for adoption or foster care on the basis of race, color or national origin of the adoptive or foster parent, or the child involved. (7-1-98)T
440. Kinship Care. Alternative care that is provided by a relative by blood or marriage. (7-1-98)T
421. Licensed. Facilities or programs being licensed in accordance with the provisions of Idaho Department of Health and Welfare Rules IDAPA 16.06.02, "Rules and Standards for Child Care Licensing". (7-1-98)T
432. Licensing. See Idaho Department of Health and Welfare Rules, IDAPA 16.06.02, "Rules and Standards for Child Care Licensing," Section 100. (7-1-98)T
443. Medicaid. See "Title XIX," defined in Subsection 004.38. (7-1-98)T
454. Medicare. See "Title XVIII," defined in Subsection 004.39. (7-1-98)T
- ~~46. Most in Need of Mental Health Services. A child under eighteen (18) years of age who is gravely impaired as evidenced by imminent risk of harm to self or others or are at risk of out of home placement due to a serious emotional disturbance and lack resources to obtain services through the non public community treatment system. (7-1-98)T~~
475. Multiethnic Placement Act of 1994 (MEPA). MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color or national origin. (7-1-98)T
486. Needs Assessment. First step in the planning process which results in systematic documentation of existing conditions in the family and the desired outcomes for the family taking into consideration the number of individuals or families who are receiving services and the number who remain unserved. (7-1-98)T
497. Objective. Statement of measured and specific progress toward a goal to be achieved during a stated period of time. (7-1-98)T
5048. Permanency Planning. A primary function of family services initiated in all cases to identify

programs, services and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (7-1-98)T

~~549.~~ Personal Care Services (PCS). Services to eligible Medicaid recipients that involve personal and medically oriented tasks dealing with the physical or functional impairments of the individual. (7-1-98)T

~~520.~~ P.L. 96-272. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980". Section 422 requires states to implement a case review system to protect children in alternate care under the supervision of the state. (7-1-98)T

~~531.~~ P.L. 105-89. Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997", amends the case review and case plan requirements of P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. (7-1-98)T

~~542.~~ Planning. An orderly rational process which results in identification of needs and formulation of timely strategies to fulfill such needs, within resource constraints. (7-1-98)T

~~553.~~ Prevention. Programs, services and activities aimed at preventing child protective and severe behavioral and emotional problems. Prevention services are developed and provided by the Department in coordination with other statewide and community organizations as resources are available. (7-1-98)T

~~564.~~ Protective Services. To provide assistance in response to potential, actual or alleged neglect, abuse or exploitation of children. (7-1-98)T

~~575.~~ Purchase of Services. Provision of services to clients by local agencies or individuals who contract with DHW. (7-1-98)T

~~586.~~ Qualified Expert Witness--ICWA. A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (7-1-98)T

a. A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; (7-1-98)T

b. An individual who is not a tribal member who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; (7-1-98)T

c. A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community; or (7-1-98)T

d. An individual regarded as being a qualified expert who is referred by the Indian child's tribe, the Department's ICWA Specialist, or the Bureau of Indian Affairs. (7-1-98)T

~~597.~~ Reservation. Indian country as defined in 18 U.S.C. Section 1151, and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. Such term includes but is not limited to the Kootenai Reservation, the Coeur d'Alene Reservation, the Nez Perce Reservation, the Duck Valley Reservation, and the Shoshone-Bannock Reservation. (7-1-98)T

~~58.~~ Respite Care. Time limited care provided to children. Respite care is utilized in circumstances which require short term, temporary placement of a child from the home of their usual care giver to that of another licensed or agency approved family. In general, the duration of a respite placement is from one (1) to fourteen (14) days. However, this time frame should allow enough flexibility for individual case considerations in determining the necessary length of a respite placement. Conditions where respite care services may be needed include, but are not limited to: (7-1-98)T

- a. Personal emergencies of the care provider: (7-1-98)T
- b. When it is not practical or appropriate for the child in care to accompany and travel with the family: (7-1-98)T
- c. As a means of maintaining a placement by providing a break for the child and family; and (7-1-98)T
- d. Addressing other unanticipated, unpredictable events which may occur. (7-1-98)T
- ~~605~~9. Risk Assessment. Direct contact of a family services worker with a family to objectively determine if safety issues, risk issues or immediate service needs exist, which require further Family and Children's Services response. (7-1-98)T
640. SSI (Supplemental Security Income). Income maintenance grants for eligible persons who are aged, blind or disabled. These grants are provided under Title VI of the Social Security Act and are administered by the Social Security Administration and local Social Security Offices. (7-1-98)T
621. Self-Reliance Services. Supportive social services provided to individuals and their families to increase their ability to obtain and retain employment. (7-1-98)T
632. Serious Emotional Disturbance (SED). An emotional or behavioral disorder or a neuropsychiatric condition which results in a serious disability, which requires sustained treatment interventions and causes the child's functioning to be impaired in thought, perception, affect and/or behavior. A disorder shall be considered to be a serious disability if it causes substantial impairment in functioning in family, school and/or community. A substance abuse disorder and/or conduct disorder, and/or developmental disorder, alone does not, ~~by itself,~~ constitute a serious emotional disturbance, although one (1) or more of these conditions ~~may~~ may co-exist with serious emotional disturbance. (~~7-1-98)T~~(7-1-98)T
643. Sheltered Workshop Services. Work activities and extended sheltered employment services for adults age eighteen (18) and over who are developmentally disabled as defined by the Idaho Developmental Disabilities Services and Facilities Act. Sheltered workshop services are established to assist individuals in acquiring skills which promote opportunities for independent daily living and/or employment. Activities include therapeutic and prevocational activities, skills for self-care and management of daily living and recreational and work skills training. (7-1-98)T
654. Social Service Block Grant. The social service block grant funds are federal funds provided to states to assist in the development of comprehensive social service programs to help those with special needs to achieve and maintain a greater degree of economic self support and self reliance, to prevent neglect, abuse, or exploitation of children and adults who are unable to protect their own interests, to prevent or reduce inappropriate institutional care, and to secure referral or admission for institutional care when other forms of care are not appropriate. (7-1-98)T
665. TAFI. Temporary Assistance to Families in Idaho. (7-1-98)T
676. Target Population. Group of persons, residing within a defined geographical area, who are identified as being at risk for an adverse social or health condition or combination of conditions and whom the program is designed to serve. (7-1-98)T
687. Title IV-A. Title under the Social Security Act which provides public assistance to families with dependent children and is commonly identified as Aid to Families with Dependent Children (AFDC), repealed in 1997 except for eligibility requirements for Title IV-E. (7-1-98)T
698. Title IV-B. Title under the Social Security Act which provides Child Welfare Services. This categorical service program is aimed at improving the general welfare of children regardless of income. (7-1-98)T
- ~~706~~9. Title IV-E. Title under the Social Security Act which provides funding for foster care maintenance

(formerly provided for under Title IV-A of the Social Security Act) and adoption assistance payments for certain eligible children. (7-1-98)T

740. Title XVIII (Medicare). Title of the Social Security Act which provides funding for medical services for persons over age sixty-five (65). (7-1-98)T

721. Title XIX (Medicaid). Title under the Social Security Act which provides "Grants to States for Medical Assistance Programs". (7-1-98)T

732. Title XXI. (Children's Health Insurance Program). Title under the Social Security Act which provides access to health care for uninsured children under the age of nineteen (19). (7-1-98)T

743. Tribal Court. A court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings. (7-1-98)T

754. Unmarried Parents' Services. Unmarried parents' services are aimed at achieving or maintaining self-reliance or self-support for unmarried parents. These services include counseling for all unmarried parents who need such service in relation to their plans for their children and arranging for and/or paying for prenatal and confinement care for the well-being of the parent and infant. (7-1-98)T

75. Voluntary Services Agreement. A written and executed agreement between the Department and parents regarding the goal, issues, objectives and task responsibility including payment. The family services plan is a Voluntary Service Agreement. (7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**040. FAMILY SERVICES PRACTICE.**

Through social work and the use of other appropriate and available resources, the Department provides services for children and families with the goal of preventing or eliminating the need to remove children from their homes; providing for children's safe return home as soon as possible; providing mental health treatment services needed by the child and family; and promoting the stability and security of Indian tribes and families by compliance with the Indian Child Welfare Act. (7-1-98)T

01. Service Capacity Management. The Department shall manage service capacity within each region of the state to ensure that family service workers respond within a reasonable period of time to referrals, requests for services and ongoing family case needs. (7-1-98)T

02. Permanency Planning. Permanency is the primary goal of family services in all cases by: (7-1-98)T

a. Establishing a plan for programs, services and activities that move toward the goal of permanency for family members within a reasonable amount of time as identified in the family plan, consistent with the child's development and sense of time; (7-1-98)T

b. Identifying temporary and permanent living arrangements for children who are unable to remain in their own homes; (7-1-98)T

c. Providing counseling to children, families and alternate care providers toward the goal of family reunification or toward other permanent arrangements for the children when family reunification is not feasible within a reasonable amount of time; (7-1-98)T

d. Providing services and assistance to facilitate independent living when that is the goal of the permanency plan for a child; and (7-1-98)T

e. Providing services, including case management, so that children with serious emotional disturbances can remain within their home, family, school, community and receive treatment in the least restrictive and most appropriate setting possible. (7-1-98)T

03. Family Plan Development. The family plan shall be completed within thirty (30) days of the date the case was opened. (7-1-98)T

a. Families shall be involved in identification of issues, planning their own service and treatment goals, objectives and processes. The family plan and any changes to it shall be signed and dated by the family, or the reason for their refusal to sign shall be documented in the plan. (7-1-98)T

b. The duration and frequency of services shall be determined based on the needs of the family and individuals involved and shall be identified in the family plan. (7-1-98)T

c. All parties shall receive a copy of the family plan and all parties, including the parents and the child if, of appropriate age, shall sign a statement indicating they have read and understood the plan. (7-1-98)T

d. At least every six (6) months or when significant changes in the family's circumstances warrant, the assigned family services worker shall reassess the need for continued services and update the family plan based on the changing needs of the family or individual family members. (7-1-98)T

e. Administrative or judicial review shall be held at least every six (6) months for each child placed under the Child Protective Act or other out of home placement including placements made under the Children's Mental Health Services Act and for children in guardianship of the Department, including children placed in adoptive placements and who are placed in adoptive homes, from the date guardianship is granted until a final court order of adoption is issued and placed in the family plan. ~~(7-1-98)T~~(7-1-98)T

f. Planning for closure shall begin at the time the family plan is developed and the ending date for services shall be projected. (7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. SERVICES TO BE PROVIDED.**

The role of the family services worker is to assure that the following services are provided and documented in the case record: (7-1-98)T

01. Reasonable Efforts. Services offered or provided to the family intended to prevent removal of the child from the family, to reunify a child with their family, or prevent a seriously emotionally disturbed child from having to move to a more restrictive setting, or to obtain another permanent placement. At all times the health and safety of the child shall be the primary concern. Reasonable efforts are not required in those situations where a court has determined that they were not required. (7-1-98)T

02. Active Efforts. For an Indian child, a description of the active efforts made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family; that these efforts have proved unsuccessful; and that based on qualified expert information, continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. (7-1-98)T

03. ICWA Preferences. If appropriate, application of the placement preference for placement in accordance with the Indian Child Welfare Act, or a detailed explanation of good cause for not applying the preferences. (7-1-98)T

04. Least Restrictive Setting. Placement in the least restrictive setting and in close proximity to the parents or if not, justification that the placement is in the best interest of the child; or, for an Indian child, placement in the least restrictive setting that most approximates a family and is within reasonable proximity to the child's home

taking into account any special needs of the child. (7-1-98)T

05. Legal Requirements. Compliance with all the requirements of the court at the time of the judicial determination; and in the case of an Indian child, notice of the pending proceeding to the parent or Indian custodian and the Indian child's tribe, including notice of their right to intervene; the right to twenty (20) days' additional time to prepare for the proceeding; the right to appointment of counsel if the parent or Indian custodian is indigent; the right to examine all documents filed with the court upon which placement may be based; and the right to withdraw consent to a voluntary foster placement. (7-1-98)T

06. Analysis of Cause for Placement. An analysis of the circumstances that necessitated the placement and improvements required for the child's return home. (7-1-98)T

07. Planning for Foster Care. Formulation of the Department's plan for assuring that the child receives necessary care while in the foster home or treatment setting, including services to the foster parents. (7-1-98)T

08. Date for Permanent Placement. Determination of the anticipated date the child will return to his or her parents or to an alternate permanent placement. (7-1-98)T

09. Consideration of Long-Term Foster Care. Use of long-term care shall be utilized only when circumstances will not allow the child with special needs to return home, to be placed with a relative or in a legal guardianship, or be placed with an adoptive family, after reasonable efforts to replace the child with the parents or another family or an adoptive family. ~~There must be active agreement of the caretaker and child. Such agreement shall be in writing and signed by the foster parent(s), child, designated Department staff and where appropriate, the child's family. The court must sanction placement in a permanent foster home. If the placement is sanctioned by the court, the child is considered to be in a permanent family and permanency hearings are no longer required. Six (6) month reviews are still required.~~ (7-1-98)T(7-1-98)T

10. Visitation for Birth Parents. Arrangements for visitation arrangements provided to the birth parents. (7-1-98)T

11. Notification of Change in Placement. Written notification to the birth parents within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting, or similar notice to the parent or Indian custodian of an Indian child, and the Indian child's tribe, which includes the information described in Subsection 423.02.b.i. (7-1-98)T

12. Notification of Change in Visitation. Written notification that birth parents shall be notified in writing if there is to be a change in their visitation schedule with their child in foster care. (7-1-98)T

13. Notification of Right to Participate and Appeal. A written statement that birth parents shall be notified in writing of their right to discuss any changes and the opportunity to appeal if they disagree with changes in placement or visitation. (7-1-98)T

14. ICWA Placement Preferences. Compliance with the foster care placement preferences of the Indian Child Welfare Act. (7-1-98)T

15. Compliance with requirements of the Multiethnic Placement Act and Interethnic Placement Act. (7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**240. ADMINISTRATIVE REVIEW.**

Unless a judicial review occurs at the end of a six (6) month period in a Child Protective Act placement or other out of home placement including placements under the Children's Mental Health Services Act, placements of children where the Department is their guardian, the Department shall conduct an individual family case review to assure



compliance with all applicable state and federal laws, and to ensure good social and clinical practice. (7-1-98)T

01. Notice of Administrative Review. The administrative review shall include: (7-1-98)T

a. ~~Advance written notice to all parties, including foster parents, preadoptive parents and relatives providing care of a child and an Indian child's tribe if appropriate; The foster parents of a child and any preadoptive parent or relative providing care for the child and an Indian child's tribe, if appropriate, are provided with notice of and an opportunity to be heard. This shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party solely to the review on the basis of such notice and opportunity to be heard.~~ (7-1-98)T(7-1-98)T

b. Action being considered; (7-1-98)T

c. The right to be represented by the individual of their choice. (7-1-98)T

02. Procedure in Administrative Review. The parties shall be given the opportunity for face-to-face discussion including attending, asking questions and making statements. (7-1-98)T

03. Members of Administrative Review Panel. The administrative review team shall include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parents being reviewed. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes and citizens qualified by experience, professional background or training. Members of the administrative review panel shall be chosen by the regional director and receive instructions from the program manager to enable them to understand the review process and their roles as participants. (7-1-98)T

04. Issues Considered in Administrative Review. The review panel shall: (7-1-98)T

a. Review the extent to which all parties have followed through with the family plan, their progress toward alleviating the circumstances necessitating the placement and the extent to which the goals described in the plan have been achieved. (7-1-98)T

b. Review compliance with the Indian Child Welfare Act, if appropriate; (7-1-98)T

c. Make a determination of the continuing necessity for and appropriateness of the child's placement; (7-1-98)T  
and

d. A target date by which the child may safely be returned home or placed for adoption, legal guardianship or other permanent placement. (7-1-98)T

05. Recommendations and Conclusions of Administrative Review Panel. Following the review, written conclusions and recommendations shall be provided to all participants, subject to Department safeguards for confidentiality. The decision shall also provide appeal rights. (7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**424. REQUIREMENTS FOR THE ALTERNATE CARE PLAN (SECTION 422 COMPLIANCE).**

Section 422 of P.L. 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980," requires states to implement a case review system to protect children who are in alternate care under the supervision of the state. The system must meet certain requirements for the contents of the alternate care plan, for periodic case review and for dispositional hearings. (7-1-98)T

01. Contents. The alternate care plan shall include the following requirements of P.L. 96-272, P.L. 101-239 and P.L. 105-89): (7-1-98)T

- a. A description of the type of home or institution in which the child is to be placed; (7-1-98)T
- b. A discussion of the appropriateness and safety of the placement; (~~7-1-98~~)T(7-1-98)T
- c. A statement of how the plan is designed to achieve placement in ~~the~~ a safe setting that is the least restrictive (most family-like) and most appropriate setting available; ~~consistent with the best interest and special needs of the child;~~ (7-1-98)T(7-1-98)T
- d. A statement of how the plan is designed to achieve placement in close proximity to the parents' home, consistent with the best interest and special needs of the child; (7-1-98)T
- e. Discussion of how the family and the Department plan to carry out the judicial determination made (court order) with respect to the child in accordance with Section 472(a)(1), P.L. 96-272. The Department shall use a family unity meeting concept making reasonable efforts to gather immediate and extended family members and other significant supporters to identify family strengths relevant to creating a safe environment for the child. This process will be fully reported to the court along with resulting plans and commitments; (7-1-98)T
- f. A plan for assuring that the child receives safe and proper care; (~~7-1-98~~)T(7-1-98)T
- g. A plan for assuring that identified services are provided to the child and family to improve the conditions in the parents' home, to recommend to the court the safe return of the child to that home or to arrange for other permanent placement for the child. In the case of a child with a serious emotional disturbance, the plan will identify services and behavior required for the child to return to living at home. All case plans shall include specific time frames of obtaining the family's measurable outcomes and defined frequency of communication, review and reassessment of risk; (7-1-98)T
- h. Documentation, when applicable, of compelling reasons for not pursuing termination of parental rights for those children who have been in care fifteen (15) of the last twenty-two (22) months since the date of the adjudication or sixty (60) days after the original placement, whichever comes first. (7-1-98)T
- i. Documentation of the actions taken to recruit and process an adoptive family, a fit and willing relative, a legal guardian or another planned permanent living arrangement a family placement and to finalize the adoption, legal guardianship or placement for those children for whom the plan is adoption or placement in another permanent home. Documentation must include the child specific recruitment efforts utilized including the use of state and national adoption exchanges and electronic exchanges. (~~7-1-98~~)T(7-1-98)T
- j. A plan for assuring that identified services are provided to the child and foster parents to address the needs of the child while in foster care; (7-1-98)T
- k. If the child is over fifteen and a half (15 1/2) years of age, a description of the services, including educational goals, living skills training, employment preparation and preparation for self-reliance, that are being provided to enable the child to transition to independence. (7-1-98)T
- l. A discussion of the appropriateness of the services provided to the child under the plan; and (7-1-98)T
- m. To the extent available and accessible, current health and education records, including: (7-1-98)T
- i. The names and addresses of the child's health and educational providers; (7-1-98)T
- ii. The child's grade level performance; (7-1-98)T
- iii. The child's school record; (7-1-98)T
- iv. Assurances that the child's alternate care arrangements take into account proximity to the school in which the child is enrolled at the time the alternate care plan is developed; (7-1-98)T

- v. A record of the child's immunizations; (7-1-98)T
- vi. The child's known medical problems including any emotional and/or behavioral disturbances and plans to remediate these problems; (7-1-98)T
- vii. Any other pertinent health and education information, including current medications, concerning the child. (7-1-98)T
- n. A statement explaining why the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a state different from the state in which such home is located, and why such placement is in the best interests of the child; (7-1-98)T
- o. A plan for assuring that if a child has been placed in foster care outside the state in which the home of the parents of the child is located, periodically but not less frequently than every twelve (12) months, a caseworker on the staff of the state agency of the state in which the home of the parents of the child is located, or of the state in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the state agency of the state in which the home of the parents of the child is located. (7-1-98)T
02. Periodic Review. By the provision of Section 475(5)(b), P.L. 96-272, the status of each child placed in alternate care must be reviewed periodically, but no less frequently than every six (6) months from the date of the original alternate care placement and every six (6) months thereafter ~~until the child has been in placement for eighteen (18) months (see Subsection 424.03.e.), by either a court or an administrative review.~~ The periodic reviews shall meet the following six (6) requirements: (7-1-98)T(7-1-98)T
- a. The periodic reviews have determined the continuing necessity for, and the appropriateness and safety of, the placement. (7-1-98)T(7-1-98)T
- b. The periodic reviews have determined the extent of compliance with the alternate care plan. (7-1-98)T
- c. The periodic reviews have determined the extent of progress which has been made toward alleviating or mitigating the causes necessitating the placement. (7-1-98)T
- d. The periodic reviews have projected a likely date by which the child may ~~safely~~ return to his or her own home and be safely maintained or be placed for adoption or in other permanent placements including kinship care and legal guardianship. (7-1-98)T(7-1-98)T
- e. ~~The periodic reviews are open to the participation of the parents, foster parents, preadoptive parents and relatives providing care of a child and the children involved. The foster parents of a child, any preadoptive parent or relative providing care for the child, and the child's Indian tribe, if appropriate, are provided with notice of and opportunity to be heard. This shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party solely to the review on the basis of such notice and opportunity to be heard.~~ (7-1-98)T(7-1-98)T
- f. The periodic reviews are conducted by a panel of appropriate persons, at least one (1) of whom is not responsible for the case management of, or delivery of, services to either the child or the parents who are the subject of the review. (7-1-98)T
03. Permanency Hearings. By the provisions of Section 475(5)(b), P.L. 96-272, every child in alternate care under state supervision must be afforded a permanency hearing. (7-1-98)T
- a. Permanency hearings shall meet the following three (3) requirements: (7-1-98)T
- i. Procedural safeguards were applied with respect to parental rights pertaining to the removal of the child from the home of his or her parents; (7-1-98)T
- ii. Procedural safeguards were applied with respect to parental rights pertaining to a change in the

- child's placement; and (7-1-98)T
- iii. Procedural safeguards were applied with respect to parental rights pertaining to any determination affecting visitation rights. (7-1-98)T
- b. Procedural safeguards shall assure fundamental fairness to the family including the following: (7-1-98)T
- i. Opportunity for a hearing prior to any change of disposition or of the status quo; (7-1-98)T
- ii. Adequate notice of such hearings, with time to prepare and right to be present; (7-1-98)T
- iii. Their right to know the allegations against them and to confront those allegations; and (7-1-98)T
- iv. Their right to have legal counsel appointed if requested and eligible. (7-1-98)T
- c. Permanency planning hearings shall be held no later than twelve (12) months after the date of the original alternate care placement and no later than every twelve (12) months thereafter. Some hearings, not dispositional hearings, are required more frequently according to the following guidelines: (7-1-98)T
- i. Hearings are required each time any child is moved to a more restrictive alternate care setting; (7-1-98)T
- ii. Every twelve (12) months for any child in the care of the Department under Section 16-1610, Idaho Code, the "Child Protective Act," a renewal of custody hearing is needed. This hearing shall meet permanency planning hearing requirements if the judge makes, and the resulting court order contains, required findings; or (7-1-98)T
- iii. Hearings are required in accordance with Section 16-2010(c), Idaho Code, at least each twelve (12) months from the date guardianship was granted, until a final court order of adoption is issued and placed in the adoptive family's case record. (7-1-98)T
- d. The administrative or judicial hearing for permanency planning disposition must include, at a minimum: (7-1-98)T
- i. The foster parents of a child, any preadoptive parent or relative providing care for the child, and/or the child's Indian tribe, if appropriate, are provided with notice of and opportunity to be heard. This shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party solely to the hearing on the basis of such notice and opportunity to be heard. Written notice ~~to all parties, including foster and pre-adoptive parents,~~ shall be provided at least two (2) weeks in advance specifying: ~~(7-1-98)T~~(7-1-98)T
- (1) The date, time, and place of the review; (7-1-98)T
- (2) Action to be taken; (7-1-98)T
- (3) Opportunity for face-to-face discussion including attending, asking questions, and making statements; (7-1-98)T
- (4) Opportunity for recourse in the form of a petition for review by the magistrate division of the District Court or, more generally, by the request for a review hearing in underlying court action under the appropriate Act. (7-1-98)T
- ii. Determination of: (7-1-98)T
- (1) Continuing necessity for, and appropriateness of, the child's placement; and where applicable, whether an out-of-state placement continues to be appropriate and in the best interests of the child. ~~(7-1-98)T~~(7-1-98)T

(2) The permanency plan for the child that includes whether, and if applicable when, the child will be returned to their parents, the state will file a petition for termination of parental rights and place the child for adoption, or referred for legal guardianship or, in cases where the Department has documented to the state court compelling reasons exist that it would not be in the best interest of the child to terminate parental rights, placed in another permanent living arrangement. (7-1-98)T(7-1-98)T

e. The twelve (12) month permanency ~~planning dispositional~~ hearing may be held by the court having jurisdiction in the underlying case if that is the preference of the court. If the court does not wish to conduct this hearing, it may be held administratively by a hearing officer appointed by the regional director. (7-1-98)T(7-1-98)T

i. The hearing officer shall not be an employee of the Division of Family and Community Services or a regional Family and Children's Services Program. (7-1-98)T

ii. The hearing officer shall be certified as having completed the training program provided by the Deputy Attorney General assigned to the region or the Division that will enable him to understand the review process and his role as participant and hearing officer. This requirement of certification does not include hearing officers with legal background or judges, although both are encouraged to attend training sessions. (7-1-98)T

f. A written record of the administrative or judicial hearing shall be maintained: (7-1-98)T

i. Indicating the time, date, and place of the review hearing and all the participants; (7-1-98)T(7-1-98)T

ii. Stating the recommendations and conclusions and the reasons therefore; (7-1-98)T

iii. Filed in the family's case record and with the court; and (7-1-98)T

iv. Provided to all participants, subject to the safeguards regarding confidentiality in accordance with the provisions of IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records". (7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**641. CHILDREN'S MENTAL HEALTH SERVICES.**

01. Services Provided. Section 16-2402, Idaho Code, designates the Department as the lead agency in establishing and coordinating community supports, services, and treatment for children with serious emotional disturbances and their families. The goals of services are safety of the child and family and individualized treatment in the least restrictive and most normalized setting possible for the child. Successful outcome indicators include, but are not limited to: (7-1-98)T

a. The child is living in his or own home community; (7-1-98)T

b. The child's primary relationships and social identity is with positive peers; (7-1-98)T

c. The child attends and participates in his or her school regularly; (7-1-98)T

d. The child's life is free of critical incidents which endanger him or her and/or others; and (7-1-98)T

e. The child has no involvement with the juvenile corrections system. (7-1-98)T

02. Use of Public Funds and Benefits. Public funds and benefits will be used to provide services for children with serious emotional disturbances, including all Jeff D. class members and their families ~~who are most in~~

~~need of services.~~ Services should be planned and implemented to maximize the support of the family's ability to provide adequate safety and well-being for the child at home. If the child cannot receive adequate services within the family home, community resources shall be provided to minimize the need for institutional or other residential placement. Services shall be individually planned with the family to meet the unique needs of each child and family. Services shall be provided without requiring that parents relinquish custody of their child. ~~(7-1-98)T~~(7-1-98)T

**642. SERVICES TO BE PROVIDED.**

In addition to those services cited in Sections 040 and 050, the Department provides and/or financially supports a continuum of services for ~~seriously emotionally disturbed~~ children with a serious emotional disturbance and their families. ~~(7-1-98)T~~(7-1-98)T

01. Family and Community-Based Services. Services include, but are necessarily limited to therapeutic support services such as screening, intake, risk assessment, comprehensive assessment/evaluation, crisis and emergency intervention, psychiatric, individual, group and family therapy, family preservation, companions, day treatment, crisis respite care, therapeutic foster care, case management, and psychosocial rehabilitation services, both group and individual. (7-1-98)T

02. Out-of-Home Residential Services. Services which include, but are necessarily limited to: therapeutic group home, residential treatment, State hospital and psychiatric hospitalization. (7-1-98)T

03. Transition Services. Planning with youths and their families as the youths approach age eighteen (18) ensure that the youths with a serious emotional disturbance will receive services, as adults, that they need and for which they are eligible. (7-1-98)T

04. Community Education and Outreach. These activities assure that citizens in each community are aware of what issues affect children's mental health as well as what children's mental health services are available within the community, both publicly and privately funded. (7-1-98)T

**643. CHARGES TO PARENTS.**

Parents of children with serious emotional disturbances who are receiving services either directly from the Department's Family and Children's Services program or through Department contracts with private providers, are responsible for paying for services provided to their child and to their family. The amount charged for each service shall be in accordance with the parents' ability to pay as determined by a sliding fee scale. ~~In addition, liable third-party sources including, but not limited to, private insurance and Medicaid must be included in determining the ability to pay for services that the parent and child are receiving. When a child is placed in alternate care, parents are responsible for costs associated with the care of their child or children. The family will be referred to Child Support Services for determination of fees associated with out of home care and for payment arrangements according to Sections 436 through 440. The amount charged for services when a child is living outside of his or her home, such as foster care, residential care or hospital shall be in accordance with the parent's ability to pay as determined by a sliding scale (cost of care as compared with parent's available income and consideration of indebtedness) applied by the Division of Welfare's Bureau of Child Support Services.~~ ~~(7-1-98)T~~(7-1-98)T

**644. SLIDING SCALE FEE TABLE 644.**

Sliding scale fee for services provided to a child in their home;

<u>ANNUAL HOUSEHOLD INCOME</u>									
<u>Family Size</u>								<u>each add'l person</u>	<u>% pay child at home</u>
<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>		
<u>&lt;\$8,050</u>	<u>&lt;\$10,850</u>	<u>&lt;\$13,650</u>	<u>&lt;\$16,450</u>	<u>&lt;\$19,250</u>	<u>&lt;\$22,050</u>	<u>&lt;\$24,850</u>	<u>&lt;\$27,650</u>		<u>0 %</u>
<u>\$8,050</u>	<u>\$10,850</u>	<u>\$13,650</u>	<u>\$16,450</u>	<u>\$19,250</u>	<u>\$22,050</u>	<u>\$24,850</u>	<u>\$27,650</u>	<u>+\$2,800</u>	<u>0 %</u>
<u>\$10,062</u>	<u>\$13,562</u>	<u>\$17,062</u>	<u>\$20,562</u>	<u>\$24,062</u>	<u>\$27,562</u>	<u>\$31,062</u>	<u>\$34,562</u>	<u>+\$3,500</u>	<u>5 %</u>

<b>ANNUAL HOUSEHOLD INCOME</b>									
<b>Family Size</b>								<b>each add'l person</b>	<b>% pay child at home</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>		
<u>\$12,075</u>	<u>\$16,275</u>	<u>\$20,475</u>	<u>\$24,675</u>	<u>\$28,875</u>	<u>\$33,075</u>	<u>\$37,275</u>	<u>\$41,475</u>	<u>+\$4,200</u>	<u>10 %</u>
<u>\$14,087</u>	<u>\$18,987</u>	<u>\$23,887</u>	<u>\$28,787</u>	<u>\$33,687</u>	<u>\$38,587</u>	<u>\$43,487</u>	<u>\$48,387</u>	<u>+\$4,900</u>	<u>15 %</u>
<u>\$16,100</u>	<u>\$21,700</u>	<u>\$27,300</u>	<u>\$32,900</u>	<u>\$38,500</u>	<u>\$44,100</u>	<u>\$49,700</u>	<u>\$55,300</u>	<u>+\$5,600</u>	<u>20 %</u>
<u>\$18,112</u>	<u>\$24,412</u>	<u>\$30,712</u>	<u>\$37,012</u>	<u>\$43,312</u>	<u>\$49,612</u>	<u>\$55,912</u>	<u>\$62,212</u>	<u>+\$6,300</u>	<u>30 %</u>
<u>\$20,125</u>	<u>\$27,125</u>	<u>\$34,125</u>	<u>\$41,125</u>	<u>\$46,625</u>	<u>\$55,125</u>	<u>\$62,125</u>	<u>\$69,125</u>	<u>+\$7,000</u>	<u>40 %</u>
<u>\$22,137</u>	<u>\$30,712</u>	<u>\$37,537</u>	<u>\$45,237</u>	<u>\$51,437</u>	<u>\$60,637</u>	<u>\$68,337</u>	<u>\$76,037</u>	<u>+\$7,700</u>	<u>50 %</u>
<u>\$24,150</u>	<u>\$32,550</u>	<u>\$40,950</u>	<u>\$49,350</u>	<u>\$57,750</u>	<u>\$66,150</u>	<u>\$74,550</u>	<u>\$82,950</u>	<u>+\$8,400</u>	<u>60 %</u>
<u>\$26,162</u>	<u>\$35,262</u>	<u>\$44,362</u>	<u>\$53,462</u>	<u>\$62,562</u>	<u>\$71,662</u>	<u>\$80,762</u>	<u>\$89,862</u>	<u>+\$9,100</u>	<u>70 %</u>
<u>\$28,175</u>	<u>\$37,975</u>	<u>\$47,775</u>	<u>\$57,575</u>	<u>\$67,375</u>	<u>\$77,175</u>	<u>\$86,975</u>	<u>\$96,775</u>	<u>+\$9,800</u>	<u>80 %</u>
<u>\$30,187</u>	<u>\$40,687</u>	<u>\$51,187</u>	<u>\$61,687</u>	<u>\$72,187</u>	<u>\$82,687</u>	<u>\$93,187</u>	<u>\$103,687</u>	<u>+\$10,500</u>	<u>90 %</u>
<u>\$32,200</u>	<u>\$43,400</u>	<u>\$54,600</u>	<u>\$65,800</u>	<u>\$77,000</u>	<u>\$88,200</u>	<u>\$99,400</u>	<u>\$110,600</u>	<u>+\$11,200</u>	<u>100 %</u>

(7-1-98)T

**6445. FEE DETERMINATION FOR SERVICES OTHER THAN ALTERNATE CARE.**

Parent(s) or guardians must complete a voluntary application for service and complete a "Fee Determination Form" prior to the delivery of services. The fee determination process includes the following features: (7-1-98)T

01. Ability to Pay. Charges are based upon the number of dependents and family income. (7-1-98)T
  - a. An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible. (7-1-98)T
  - b. Redetermination of ability to pay will be made at least annually or upon request of the parents or at any time changes occur in family size, income or allowable deductions. (7-1-98)T
  - c. In determining the family's ability to pay for services, the Department shall deduct annualized amounts for: (7-1-98)T
    - i. Court-ordered obligations; (7-1-98)T
    - ii. Dependent support; (7-1-98)T
    - iii. Child care payments necessary for parental employment; (7-1-98)T
    - iv. Medical expenses; (7-1-98)T
    - v. Transportation; (7-1-98)T
    - vi. Extraordinary rehabilitative expenses; and (7-1-98)T
    - vii. State and federal tax payments, including FICA taxes. (7-1-98)T
  - d. Information regarding third-party payors and other resources including Medicaid or private

insurance must be identified and developed in order to fully determine the parents' ability to pay and to maximize reimbursement for the cost of services provided. (7-1-98)T

e. It is the responsibility of the parent(s) to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available. (7-1-98)T

02. Time of Payment. Normally charges for services will be due upon delivery of the service unless other arrangements are made, such as for monthly billing. (7-1-98)T

03. Charges. An amount will be charged based on family size, resources, income, assets and allowable deductions, exclusive of third-party liable sources, but in no case will the amount charged exceed the cost of the services. (7-1-98)T

04. Sliding Fee Scale. Fees will be charged on a sliding scale and based on the current Poverty Guidelines published in the Federal Register. Incomes below the five percent (5%) level are not to be charged. The fee schedule will be available in the regional offices of Family and Children's Services. (7-1-98)T

05. Established Fee. The maximum hourly fees or flat fees charged for children's mental health services are shown in the following Table:

<b>Table 6445. Hourly Charges for Children's Mental Health Services</b>		
		Hourly Charge
<b>a.</b>	<b>Psychosocial Rehabilitation Services</b>	
i.	Individual Psychosocial Rehabilitation	\$74
ii.	Group Psychosocial Rehabilitation	\$18
iii.	Rehabilitative Evaluation	\$74
iv.	Task Plan Development	\$74
v.	Community Crisis Support	\$74
vi.	Psychopharmacological Management	\$32
vii.	Psychological Test	\$63
viii.	Medical Report (new)	\$63
ix.	Medical Report (past record)	\$63
x.	Consultation/Collateral	\$63
xi.	Crisis Intervention (at Emergency Room)	\$74
xii.	Diagnostic Interview/Screening	\$63
<b>b.</b>	<b>Psychotherapy</b>	
i.	Individual	\$63 \$83*
ii.	Group Psychotherapy	\$24
iii.	Family Psychotherapy	\$63 \$77*
*M.D. rate		

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



**6456. ACCESS TO SERVICES.**

The Department will prioritize services to seriously emotionally disturbed children and their families. Services may be accessed through a voluntary application for services or through involuntary legal proceedings. When regional service capacity is reached, every effort will be made to obtain alternative services for the child and family. Their names will also be placed on a waiting list for Department services. (7-1-98)T

01. Response. The Department will respond to the following situations: (7-1-98)T

a. The Department will respond on a twenty four (24) hours a day, seven (7) days a week basis to reports of emergency conditions in which a child is considered to be in immediate danger involving a life-threatening situation. This would include dangerousness or risk of physical harm due to a mental illness and/or grave impairment. (7-1-98)T

b. The Department will also respond to reports of situations involving danger, but less than immediate harm. This would include situations in which parents refuse to seek services for a child with serious emotional disturbance and this neglect poses health hazards to the child that may result in physical injury or extreme emotional impairment. (7-1-98)T

02. Access Beyond Immediate Danger. In order to access publicly funded children's mental health services beyond the emergency conditions cited above, a child must be seriously emotionally disturbed, as defined in these rules. (7-1-98)T

03. Local Resources and Plan Development. Children with serious emotional disturbances and their families may have access to local resources and services which do not require placement outside their home into alternate care. A plan will be developed between the Department, the parent(s), the child, if appropriate, and the service provider. This plan will be specific, measurable and objective in the identification of the goal(s), relevant issues, objectives and outcomes. (7-1-98)T

04. Payment for Treatment. When parent(s) request Department payment for a child's treatment, a signed service agreement must be negotiated and signed by the parent(s) and the Department. In addition, a referral will be made to Child Support Services to collect payment for the cost of out-of-home care. (7-1-98)T(7-1-98)T

**6467. -- 699. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**870. REMOVAL OF A CHILD FROM AN ADOPTIVE HOME.**

Despite careful assessment of the child and the family prior to placement, circumstances may arise which make it necessary to remove the child from the home prior to adoption. The child may manifest problems that the family is unable to accept or to handle constructively; or changed circumstances may develop that make it inadvisable for the placement to continue. The decision to remove a child from an adoptive home may result due to the request of the adoptive parents, or upon the decision of the Department as the legal guardian of the child. (7-1-98)T

01. Decision for Removal. The decision for removal may be made by the Department, the family or, in some cases, jointly. (7-1-98)T

02. Consultation. Consultation shall be requested promptly by the field office and a Department decision for removal against the parents' wishes must be approved and authorized in advance by ~~the State Adoption Program Specialist~~ the Family and Children's Services program manager. If a family services worker feels there is some question regarding an adoptive placement the family services worker is supervising, these questions must be discussed with the family services worker's supervisor and reported to the State Adoption Program Specialist. (7-1-98)T(7-1-98)T

03. Temporary Replacement After Disruption. When a disruption occurs and it becomes necessary to

remove a child from an adoptive home, the field office where the child has been placed shall be responsible for finding a temporary arrangement for the child until another permanent placement can be arranged. In the case of the adoption of an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of adoption, and the child returned to the parent. (7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**890. QUALIFIED INDIVIDUAL REQUIREMENTS.**

Qualified individuals are family services workers as defined in these rules or others with related college degrees and professional experience, deemed related to the field of adoptions by the Family and Children's Services program manager, who have completed a minimum of twenty (20) hours of training in adoption services within the last four (4) years and who are certified by the Department. Certification will be for a period of four years. Individuals designated by the Indian child's tribe to perform these duties are not subject to these provisions. (7-1-98)T(7-1-98)T

01. Recertification. Qualified Individuals must apply for renewal of their certificate every four (4) years and provide documentation of twenty (20) hours of current adoption training during that period. (7-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**900. ADOPTION ASSISTANCE.**

The purpose of the adoption assistance program is to encourage the legal adoption of children with special needs who would not be able to have the security of a permanent home without support payments. Applications are made through the Division of Family and Community Services, Resource Development Unit for a determination of eligibility. Once an application for adoption assistance is submitted to the Division of Family and Community Service's, the Division shall respond with a determination of the child's eligibility within forty-five (45) days. (7-1-98)T

01. Determination of Need for Assistance. The Bureau of Children's Services shall determine whether a child is a child with special needs or is currently being adopted by a relative of a specified degree. A child must be eligible for Aid to Families with Dependent Children (AFDC), Title IV-E Foster Care or Supplemental Security Income (SSI), and meet the definition of a child with special needs according to Section 473 (c) of P.L. 96-272 (The Adoption Assistance and Child Welfare Act of 1980). (7-1-98)T

02. Factors Considered. The definition of special needs includes the following factors: (7-1-98)T

a. The child cannot or should not be returned to the home of the parents; and (7-1-98)T

b. The child has a physical, mental, emotional or medical disability, or is at risk of developing such disability based on known information regarding the birth family and child's history, or (7-1-98)T

c. The child's age makes it difficult to find an adoptive home; or (7-1-98)T

d. The child is a member of a sibling group that must not be placed apart; or (7-1-98)T

e. The child has established such close emotional ties with a foster family or relative family that replacement is likely to be as traumatic to the child as removal from a natural family; and (7-1-98)T(7-1-98)T

f. Except in cases of foster parent or relative adoption, the child must have been listed with a state, regional or national adoption exchange. (7-1-98)T(7-1-98)T

03. Racial Backgrounds Other Than Caucasian. It is recognized that children of racial backgrounds other than Caucasian add another level of complexity in recruiting potential adoptive families. Greater consideration will be given to children who meet the special needs definition who are also a race other than Caucasian. (7-1-98)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE  
16.06.12 - RULES GOVERNING IDAHO CHILD CARE PROGRAM (ICCP)**

**DOCKET NO. 16-0612-9801**

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

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 7, 1998 Administrative Bulletin, Volume 98-10, page 245.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 6th day of January, 1999.

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 06  
Chapter 12**

**RULES GOVERNING IDAHO CHILD CARE PROGRAM (ICCP)**

**This chapter is being repealed in its entirety.**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998, page 245.**

**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**  
**16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)**  
**DOCKET NO. 16-0612-9802**

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

**EFFECTIVE DATE:** The amendments to the temporary rule are effective October 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 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 Sections 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:** Sections 100, 202, 307, and 312 of the 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 October 7, 1998 Bulletin Administrative Bulletin, Volume 98-10, pages 246 through 258.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5818.

DATED this 6th day of January, 1999.

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 06**  
**Chapter 12**

**RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)**

**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 98-10, October 7, 1998, pages 246 through 258.**

**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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**THE FOLLOWING IS TEXT OF DOCKET NO. 16-0612-9802**

**100. ELIGIBILITY FOR CHILD CARE ASSISTANCE.**

Families must meet the following conditions of eligibility and provide verification requested by the Department before child care assistance is provided. ~~(10-1-98)T~~(10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**202. EXCLUDED INCOME.**

The following is not counted as family income. (10-1-98)T

01. Earned Income of a Dependent Child. Income earned by a dependent child under age eighteen (18) is not counted unless the child is a parent. (10-1-98)T

02. Income Received for Person Not Residing With the Family. Income received on behalf of a person not living in the home is excluded. (10-1-98)T

03. Education Funds. All educational funds including grants, scholarships, an Americorps Education Award, and federal and state work study income. (10-1-98)T

04. Assistance. Assistance to meet a specific need from other organizations and agencies is not counted as income. (10-1-98)T

05. Lump Sum Income. Non-recurring or lump-sum income is not counted as income if: (10-1-98)T

a. Income was used to pay medical bills resulting from accident or injury. (10-1-98)T

b. Income was used to pay funeral or burial costs. (10-1-98)T

c. When the amount of lump-sum income minus exclusions exceeds the maximum income listed in the Sliding Fee Schedule, the family will be ineligible to receive benefits. The period of ineligibility will be computed by dividing the lump-sum payment into the maximum qualifying income for that family. In no case will the period of ineligibility exceed twelve (12) months. (10-1-98)T

06. Loans. Loans with written, signed repayment agreements are not counted as income. (10-1-98)T

07. TAFI and AABD Benefits. TAFI and AABD benefits are excluded. (10-1-98)T

08. Foster Care Payments. Foster care payments are excluded as income. (10-1-98)T

09. VISTA Volunteers. Living allowances and stipends paid to VISTA volunteers under P.L. 93-113, Title IV, Section 404(g) are excluded as income. (10-1-98)T

10. Income Tax Refunds/Earned Income Tax Credits. Income tax refunds and earned income tax credits even if received with their wages are excluded as income. (10-1-98)T
11. Travel Reimbursements. Reimbursements from employers for work related travel are excluded from income. (10-1-98)T
12. Tribal Income. Income received from a tribe for any purpose other than direct wages are excluded from income. (10-1-98)T
13. Foster Parents Income. Income may be excluded based on need, on a case by case basis, for foster parents when determining eligibility and sliding fee scale amounts for children in the custody of the Department. Income is counted when determining eligibility and sliding fee scale amounts for the foster parent's biological child(ren). (10-1-98)T
14. Adoption Assistance. Adoption assistance payments. (10-1-98)T
15. Child Support Payments. Court ordered child support payments made by the participant are excluded from income. Both the legal obligation to pay child support and the actual amount paid must be verified. (10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**301. ALLOWABLE CHILD CARE COSTS.**

Care provided to an eligible child by an eligible provider is payable subject to the following conditions: (10-1-98)T

01. Payment for Employment, Seeking Employment, Training, Education, or Preventive Service Hours. Child care must be reasonably related to the hours of the qualifying activities. Travel time is included in determining qualifying activities. (10-1-98)T
02. Family Member not Payable. A parent, guardian or member of the family as defined in Section 1054 may not be paid for providing child care to that child. ~~(10-1-98)T~~(10-1-98)T
03. Person Living at Same Address not Payable. Child care provided by any person living at the same address as the family will not be paid. (10-1-98)T
04. One-Time Registration Fees. One-time fees for registering a child in a child care facility are payable, if the fee is charged to all who enroll in the facility. Fees may not exceed usual and customary charges. Registration fees are separate from local market rates. (10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**307. SLIDING FEE SCHEDULES.**

Eligible families, except TAFI families participating in non-employment TAFI activities, must pay part of their child care costs. (10-1-98)T

01. Poverty Rates. Poverty rates will be the established rates published annually in the Federal Register. The monthly rate will be calculated by dividing the yearly rate by twelve (12). (10-1-98)T
02. Calculating Family Payment. Families shall pay the provider for child care services. Family income for the month of the child care will determine the family share of child care costs. The payment made by the Department will be the allowable local market rate, less the amount calculated using the sliding fee schedule listed in Table 307.03. (10-1-98)T

03. Maximum Income and Sliding Fee Schedules:

<b>TABLE 307.03 FAMILY CO-PAYMENT REQUIREMENTS</b>									
<b>THE DEPARTMENT SLIDING FEE SCHEDULE EFFECTIVE 9-1-97</b>									
<b>FAMILY SIZE</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>MONTHLY INCOME</b>	<b>PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY</b>								
\$0-\$499	1%	1%	1%	1%	1%	1%	1%	1%	1%
\$500-\$599	5%	1%	1%	1%	1%	1%	1%	1%	1%
\$600-\$699	5%	5%	1%	1%	1%	1%	1%	1%	1%
\$700-\$799	5%	5%	5%	1%	1%	1%	1%	1%	1%
\$800-\$899	15%	5%	5%	5%	1%	1%	1%	1%	1%
\$900-\$999	15%	5%	5%	5%	5%	1%	1%	1%	1%
\$1,000-\$1,099	<b>+15%</b>	5%	5%	5%	5%	1%	1%	1%	1%
\$1,100-\$1,199	30%	15%	5%	5%	5%	5%	1%	1%	1%
\$1,200-\$1,299	30%	15%	5%	5%	5%	5%	5%	1%	1%
\$1,300-\$1,399	60%	<b>+15%</b>	15%	5%	5%	5%	5%	5%	1%
\$1,400-\$1,499	100%	30%	15%	5%	5%	5%	5%	5%	1%
\$1,500-\$1,599	100%	30%	<b>+15%</b>	15%	5%	5%	5%	5%	5%
\$1,600-\$1,699	100%	60%	30%	15%	5%	5%	5%	5%	5%
\$1,700-\$1,799	100%	100%	30%	<b>+15%</b>	15%	5%	5%	5%	5%
\$1,800-\$1,899	100%	100%	30%	15%	15%	5%	5%	5%	5%
\$1,900-\$1,999	100%	100%	30%	30%	<b>+15%</b>	5%	5%	5%	5%
\$2,000-\$2,099	100%	100%	60%	30%	15%	15%	5%	5%	5%
\$2,100-\$2,199	100%	100%	100%	30%	15%	15%	5%	5%	5%
\$2,200-\$2,299	100%	100%	100%	30%	15%	<b>+15%</b>	15%	5%	5%
\$2,300-\$2,399	100%	100%	100%	60%	30%	15%	15%	5%	5%
\$2,400-\$2,499	100%	100%	100%	100%	30%	15%	<b>+15%</b>	15%	5%
\$2,500-\$2,599	100%	100%	100%	100%	30%	15%	15%	15%	5%
\$2,600-\$2,699	100%	100%	100%	100%	60%	30%	15%	<b>+15%</b>	15%
\$2,700-\$2,799	100%	100%	100%	100%	100%	30%	15%	15%	15%
\$2,800-\$2,899	100%	100%	100%	100%	100%	30%	15%	15%	<b>+15%</b>
\$2,900-\$2,999	100%	100%	100%	100%	100%	30%	30%	15%	15%
\$3,000-\$3,099	100%	100%	100%	100%	100%	60%	30%	15%	15%
\$3,100-\$3,199	100%	100%	100%	100%	100%	100%	30%	30%	15%
\$3,200-\$3,299	100%	100%	100%	100%	100%	100%	30%	30%	15%

<b>TABLE 307.03 – FAMILY CO-PAYMENT REQUIREMENTS</b>									
<b>THE DEPARTMENT SLIDING FEE SCHEDULE EFFECTIVE 9-1-97</b>									
<b>FAMILY SIZE</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>MONTHLY INCOME</b>	<b>PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY</b>								
\$3,300 – \$3,399	100%	100%	100%	100%	100%	100%	60%	30%	15%
\$3,400 – \$3,499	100%	100%	100%	100%	100%	100%	100%	30%	30%
\$3,500 – \$3,599	100%	100%	100%	100%	100%	100%	100%	30%	30%
\$3,600 – \$3,699	100%	100%	100%	100%	100%	100%	100%	30%	30%
\$3,700 – \$3,799	100%	100%	100%	100%	100%	100%	100%	60%	30%
\$3,800 – \$3,899	100%	100%	100%	100%	100%	100%	100%	100%	30%
\$3,900 – \$3,999	100%	100%	100%	100%	100%	100%	100%	100%	30%
\$4,000 – \$4,099	100%	100%	100%	100%	100%	100%	100%	100%	60%
\$4,100 – \$4,199	100%	100%	100%	100%	100%	100%	100%	100%	100%
<p>*Maximum income for THE DEPARTMENT benefits:</p> <ul style="list-style-type: none"> <li>• \$1,326 for household of 2</li> <li>• \$1,667 for household of 3</li> <li>• \$2,007 for household of 4</li> <li>• \$2,346 for household of 5</li> <li>• \$2,687 for household of 6</li> <li>• \$3,027 for household of 7</li> <li>• \$3,366 for household of 8</li> <li>• \$3,706 for household of 9</li> <li>• \$4,047 for household of 10</li> </ul>									

Maximum Income (Or Eligibility For Payment) Based On 150% Of Poverty (1997 Poverty Tables)

<b>FAMILY CO-PAYMENT REQUIREMENTS</b>									
<b>ICCP SLIDING FEE SCHEDULE</b>									
<b>FAMILY SIZE</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>MONTHLY INCOME</b>	<b>PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY</b>								
\$0 - \$499	1%	1%	1%	1%	1%	1%	1%	1%	1%
\$500 - \$599	5%	1%	1%	1%	1%	1%	1%	1%	1%
\$600 - \$699	5%	5%	1%	1%	1%	1%	1%	1%	1%
\$700 - \$799	5%	5%	5%	1%	1%	1%	1%	1%	1%
\$800 - \$899	15%	5%	5%	5%	1%	1%	1%	1%	1%
\$900 - \$999	15%	5%	5%	5%	5%	1%	1%	1%	1%



<b>FAMILY CO-PAYMENT REQUIREMENTS</b>									
<b>ICCP SLIDING FEE SCHEDULE</b>									
<b>FAMILY SIZE</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>MONTHLY INCOME</b>	<b>PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY</b>								
\$1,000 - \$1,099	+15%	5%	5%	5%	5%	1%	1%	1%	1%
\$1,100 - \$1,199	30%	15%	5%	5%	5%	5%	1%	1%	1%
\$1,200 - \$1,299	30%	15%	5%	5%	5%	5%	5%	1%	1%
\$1,300 - \$1,399	60%	+15%	15%	5%	5%	5%	5%	5%	1%
\$1,400 - \$1,499	100%	30%	15%	5%	5%	5%	5%	5%	1%
\$1,500 - \$1,599	100%	30%	+15%	15%	5%	5%	5%	5%	5%
\$1,600 - \$1,699	100%	60%	30%	15%	5%	5%	5%	5%	5%
\$1,700 - \$1,799	100%	60%	30%	+15%	15%	5%	5%	5%	5%
\$1,800 - \$1,899	100%	100%	30%	15%	15%	5%	5%	5%	5%
\$1,900 - \$1,999	100%	100%	30%	30%	+15%	5%	5%	5%	5%
\$2,000 - \$2,099	100%	100%	60%	30%	15%	15%	5%	5%	5%
\$2,100 - \$2,199	100%	100%	100%	30%	15%	15%	5%	5%	5%
\$2,200 - \$2,299	100%	100%	100%	30%	15%	+15%	15%	5%	5%
\$2,300 - \$2,399	100%	100%	100%	60%	30%	15%	15%	5%	5%
\$2,400 - \$2,499	100%	100%	100%	60%	30%	15%	+15%	15%	5%
\$2,500 - \$2,599	100%	100%	100%	100%	30%	15%	15%	15%	5%
\$2,600 - \$2,699	100%	100%	100%	100%	60%	30%	15%	+15%	15%
\$2,700 - \$2,799	100%	100%	100%	100%	60%	30%	15%	15%	15%
\$2,800 - \$2,899	100%	100%	100%	100%	100%	30%	15%	15%	+15%
\$2,900 - \$2,999	100%	100%	100%	100%	100%	30%	30%	15%	15%
\$3,000 - \$3,099	100%	100%	100%	100%	100%	60%	30%	15%	15%
\$3,100 - \$3,199	100%	100%	100%	100%	100%	60%	30%	30%	15%
\$3,200 - \$3,299	100%	100%	100%	100%	100%	100%	30%	30%	15%
\$3,300 - \$3,399	100%	100%	100%	100%	100%	100%	60%	30%	15%
\$3,400 - \$3,499	100%	100%	100%	100%	100%	100%	60%	30%	30%
\$3,500 - \$3,599	100%	100%	100%	100%	100%	100%	100%	30%	30%
\$3,600 - \$3,699	100%	100%	100%	100%	100%	100%	100%	30%	30%
\$3,700 - \$3,799	100%	100%	100%	100%	100%	100%	100%	60%	30%
\$3,800 - \$3,899	100%	100%	100%	100%	100%	100%	100%	60%	30%
\$3,900 - \$3,999	100%	100%	100%	100%	100%	100%	100%	100%	30%
\$4,000 - \$4,099	100%	100%	100%	100%	100%	100%	100%	100%	60%

<b><u>FAMILY CO-PAYMENT REQUIREMENTS</u></b>									
<b><u>ICCP SLIDING FEE SCHEDULE</u></b>									
<b><u>FAMILY SIZE</u></b>	<b><u>2</u></b>	<b><u>3</u></b>	<b><u>4</u></b>	<b><u>5</u></b>	<b><u>6</u></b>	<b><u>7</u></b>	<b><u>8</u></b>	<b><u>9</u></b>	<b><u>10</u></b>
<b><u>MONTHLY INCOME</u></b>	<b><u>PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY</u></b>								
<b><u>\$4,100 - \$4,199</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>60%</u></b>
<b><u>\$4,200 - \$4,299</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>	<b><u>100%</u></b>
<p style="text-align: center;">* Maximum income for ICCP benefits:</p> <p style="text-align: center;"><u>\$1,356 for household of 2</u></p> <p style="text-align: center;"><u>\$1,706 for household of 3</u></p> <p style="text-align: center;"><u>\$2,056 for household of 4</u></p> <p style="text-align: center;"><u>\$2,406 for household of 5</u></p> <p style="text-align: center;"><u>\$2,756 for household of 6</u></p> <p style="text-align: center;"><u>\$3,106 for household of 7</u></p> <p style="text-align: center;"><u>\$3,456 for household of 8</u></p> <p style="text-align: center;"><u>\$3,806 for household of 9</u></p> <p style="text-align: center;"><u>\$4,156 for household of 10</u></p>									

MAXIMUM INCOME (OR ELIGIBILITY FOR PAYMENT) BASED ON 150% OF POVERTY (1998 POVERTY TABLES). (10-1-98)F(10-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**312. OVERPAYMENTS AND RECOVERY.**

Overpayments may occur for child care services as the result of agency error, family or provider error, Intentional Program Violations (IPV), or fraud as established by a judicial or administrative determination as described in Section 56-227, Idaho Code. Recovery of overpayments based on agency error may be pursued where the overpayment is one hundred dollars (\$100), or more. Overpayments due to IPV or fraud must be recovered in full. The Department will determine overpayments. Repayments will be negotiated with the Department. Failure to comply with the negotiated repayment agreement will result in disqualification of the family. Disqualification will continue until a new repayment agreement is negotiated and the family begins to make payments according to that agreement. (10-1-98)F(10-1-98)T

**IDAPA 18 - DEPARTMENT OF INSURANCE**

**18.01.16 - VARIABLE CONTRACTS**

**DOCKET NO. 18-0116-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and text of the pending rules with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-10, October 7, 1998, pages 259 and 260.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact Robert Murphy at (208) 334-4250.

Dated this 21st day of October, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18  
TITLE 01  
Chapter 16**

**VARIABLE CONTRACTS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 259 and 260.**

**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 18 - DEPARTMENT OF INSURANCE**  
**18.01.23 - RULES PERTAINING TO THE IDAHO INSURANCE HOLDING**  
**COMPANY SYSTEM REGULATORY ACT**

**DOCKET NO. 18-0123-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and text of the pending rules with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-10, October 7, 1998, pages 261 through 268.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact Robert Murphy at (208) 334-4250.

Dated this 21st day of October, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 23**

**RULES PERTAINING TO THE IDAHO INSURANCE HOLDING**  
**COMPANY SYSTEM REGULATORY ACT**

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

**The original text was published in the Idaho Administrative Bulletin,**  
**Volume 98-10, October 7, 1998, pages 261 through 268.**

**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 18 - DEPARTMENT OF INSURANCE**  
**18.01.44 - SCHEDULE OF FEES, LICENSES, AND MISCELLANEOUS CHARGES**

**DOCKET NO. 18-0144-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and text of the pending rules with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-10, October 7, 1998, pages 269 through 274.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact James Genetti at (208) 334-4250.

Dated this 21st day of October, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 44**

**SCHEDULE OF FEES, LICENSES, AND MISCELLANEOUS CHARGES**

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

**The original text was published in the Idaho Administrative Bulletin,  
Volume 98-10, October 7, 1998, pages 269 through 274.**

**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 18 - DEPARTMENT OF INSURANCE**  
**18.01.49 - FIRE PROTECTION SPRINKLER CONTRACTORS**  
**DOCKET NO. 18-0149-9801**

**NOTICE OF RESCISSION OF TEMPORARY RULE**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has rescinded the temporary rulemaking previously initiated under this docket. The action is authorized under Sections 41-211 and 41-254, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for rescinding this temporary rule.

Based upon public comments received, the temporary rule adopted under Docket No. 18-0149-9801 is being rescinded and will be replaced with a temporary rule of more limited scope.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rescission, contact Don McCoy, State Fire Marshal, at (208) 334-4370.

Dated this 5th day of November, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone (208) 334-4250  
Fax (208) 334-4298

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.49 - FIRE PROTECTION SPRINKLER CONTRACTORS**  
**DOCKET NO. 18-0149-9801**

**NOTICE OF VACATION OF PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized under Sections 41-211 and 41-254, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for the vacation of the proposed rulemaking:

Based upon public comments received, the proposed rulemaking implemented under Docket No. 18-0149-9801 is being vacated.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation, contact Don McCoy, State Fire Marshal, at (208) 334-4370.

Dated this 5th day of November, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone (208) 334-4250  
Fax (208) 334-4298

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.49 - FIRE PROTECTION SPRINKLER CONTRACTORS**  
**DOCKET NO. 18-0149-9901**

**NOTICE OF TEMPORARY AND PROPOSED RULE**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule making. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code and the State Fire Marshal under Section 41-254, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1998.

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

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

This proposed rule amends the existing Rule 18.01.49 to provide that cities and counties may elect, with the approval of the State Fire Marshal, to be exempt from the requirement that fire sprinkler plans be submitted to the Fire Marshal for review and approval. As a result of the rescission and vacation of the temporary and proposed rules under docket 18-0149-9801, this temporary rule is necessary to preserve the right for local authorities to elect to do their own plan reviews and inspections of fire sprinkler systems, while more comprehensive proposed rules are developed.

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

Protection of the public health, safety and welfare.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Don McCoy, State Fire Marshal, at (208) 334-4370.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 27, 1999.

Dated this 5th day of November, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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**THE FOLLOWING IS TEXT OF DOCKET NO. 18-0149-9901**

**021. DESIGN REQUIREMENTS.**



01. Submission of Plans. Detailed plans in accordance with applicable NFPA standards and the adopted edition of the Uniform Fire Code must be submitted for all jobs, by the licensed contractor responsible for the installation, for approval to the local fire department and to the State Fire Marshal. Exception: A modification of ten (10) heads or less in an area of less than two thousand five hundred (2500) square feet, when the modification has no effect on the hydraulic calculations of the existing system. (8-1-98)T

02. Conformance to Standards. The specifications must state that the installation will conform to the applicable standards listed in this rule and be approved by the local fire department and the State Fire Marshal. (7-1-93)

03. Tests. The specifications must include the specific tests required to meet the standards for approval of the local fire department and the State Fire Marshal. (7-1-93)

04. Scale. Plans must be drawn to an indicated scale or be suitably dimensioned, and must be made so that they can be easily reproduced. (7-1-93)

05. Detail. Plans must contain sufficient detail to evaluate the effectiveness of the system. (7-1-93)

06. Prior Approval of Plans. Plans must be submitted to the State Fire Marshal and the local fire department and approved, before work starts. Work may start prior to final plans submitted based on conceptual drawings if approved by the local fire department and the State Fire Marshal. A plans review fee of two dollars (\$2) per sprinkler head up to one thousand (1000) heads (maximum two thousand dollars (\$2,000)) or one hundred dollars (\$100) if less than fifty (50) sprinkler heads or one percent (1%) of the total bid price (whichever is larger) up to the maximum of two thousand dollars (\$2,000) or the minimum of one hundred dollars (\$100). The applicable fee must accompany the plans sent to the State Fire Marshal. Two (2) sprinkler heads on an arm-over will be considered as one (1) sprinkler head for fee purposes. (7-1-93)

07. Corrected Plans. Where field conditions necessitate any substantial change from the approved plan, the corrected plan showing the system as installed must be submitted to the local fire department and the State Fire Marshal for approval. (7-1-93)

08. Exemption. A City or County may request, and the State Fire Marshal may grant, an exemption from the requirements of this Section that plans be submitted to the State Fire Marshal for review and approval. A request for exemption shall be made in writing signed by the Fire Chief, his designated representative or elected local official and shall set forth the reasons for the request. If the State Fire Marshal determines the request is justified, the requesting party will be provided a written notice of exemption. The exemption will continue until terminated by the State Fire Marshal. Any such exemption shall not apply to plans or inspections relating to structures owned, leased or controlled by the state or any state agency. (8-1-98)T

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.50 - ADOPTION OF 1994 UNIFORM FIRE CODE**  
**DOCKET NO. 18-0150-9801**  
**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 41-211 and 41-254, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and text of the pending rules with an explanation of the reasons for the change.

This chapter is being repealed in its entirety. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-8, August 5, 1998, page 140.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact Don McCoy, State Fire Marshal, at (208) 334-4370.

Dated this 21st day of October, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 50**

**ADOPTION OF 1994 UNIFORM FIRE CODE**

**This chapter is being repealed in its entirety.**

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

**The original text was published in the Idaho Administrative Bulletin,  
Volume 98-8, August 5, 1998, page 140.**

**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 18 - DEPARTMENT OF INSURANCE**  
**18.01.50 - ADOPTION OF 1997 UNIFORM FIRE CODE**  
**DOCKET NO. 18-0150-9802**  
**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 41-211 and 41-254, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and text of the pending rules with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-8, August 5, 1998, pages 141 through 144.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact Don McCoy, State Fire Marshal, at (208) 334-4370.

Dated this 21st day of October, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 50**

**ADOPTION OF 1997 UNIFORM FIRE CODE**

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

**The original text was published in the Idaho Administrative Bulletin,  
Volume 98-8, August 5, 1998, pages 141 through 144.**

**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 18 - DEPARTMENT OF INSURANCE**  
**18.01.62 - ANNUAL AUDITED FINANCIAL REPORTS**  
**DOCKET NO. 18-0162-9801**  
**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and text of the pending rules with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-10, October 7, 1998, pages 283 through 287.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact Robert Murphy at (208) 334-4250.

Dated this 21st day of October, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 62**

**ANNUAL AUDITED FINANCIAL REPORTS**

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

**The original text was published in the Idaho Administrative Bulletin,  
Volume 98-10, October 7, 1998, pages 283 through 287.**

**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 18 - DEPARTMENT OF INSURANCE**  
**18.01.75 - CREDIT FOR REINSURANCE RULES**  
**DOCKET NO. 18-0175-9801**  
**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and text of the pending rules with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-10, October 7, 1998, pages 288 through 295.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact Robert Murphy at (208) 334-4250.

Dated this 21st day of October, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 75**

**CREDIT FOR REINSURANCE RULES**

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

**The original text was published in the Idaho Administrative Bulletin,  
Volume 98-10, October 7, 1998, pages 288 through 295.**

**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 18 - DEPARTMENT OF INSURANCE**  
**18.01.78 - MUTUAL INSURANCE HOLDING COMPANY RULES**  
**DOCKET NO. 18-0178-9801**  
**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 41-211, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and text of the pending rules with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-10, October 7, 1998, pages 296 through 305.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact Robert Murphy at (208) 334-4250.

Dated this 21st day of October, 1998.

Mary L. Hartung, Acting Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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**IDAPA 18**  
**TITLE 01**  
**Chapter 78**

**MUTUAL INSURANCE HOLDING COMPANY RULES**

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

**The original text was published in the Idaho Administrative Bulletin,  
Volume 98-10, October 7, 1998, pages 296 through 305.**

**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 19 - BOARD OF DENTISTRY**  
**19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY**  
**DOCKET NO. 19-0101-9801**  
**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 rules become final and effective July 1, 1999, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 54-912, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and the text of the pending rules with an explanation of the reasons for the change.

This rule making is necessary in order to comply with the Patient Freedom of Information Act. The proposed rules will increase license fees for general dentists and specialists. The Idaho Board of Dentistry has decided not to add Rule 61, Use of Other Anesthesia Personnel.

Only the Sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume No. 98-10, pages 306 through 317.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning these pending rules, contact Sylvia C. Boyle, Administrator, at (208) 334-2369.

DATED this 29th day of October, 1998.

Sylvia C. Boyle  
Administrator  
Idaho State Board of Dentistry  
708½ W. Franklin St.  
Boise, Idaho 83702  
(208)334-2369 (Telephone)  
(208)334-3247 (Facsimile)

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**IDAPA 19**  
**TITLE 01**  
**Chapter 01**

**RULES OF THE IDAHO STATE BOARD OF DENTISTRY**

**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 original text was published in the Idaho Administrative Bulletin,  
Volume 98-10, October 7, 1998, pages 306 through 317.**

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

**THE FOLLOWING IS TEXT OF DOCKET NO. 19-0101-9801**

**061. (RESERVED).**



**IDAPA 22 - BOARD OF MEDICINE**  
**22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS**  
**DOCKET NO. 22-0103-9802**  
**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule: To increase fees for initial licensure from \$80 to \$120 and annual renewal fee from \$30 to \$50. Fee increases are needed to meet the increase in legal costs for disciplinary sanctions against physician assistants; administrative costs for processing of applications for licensure; and the anticipated costs for implementation and compliance to the Patient Freedom of Information Act, effective January, 2000.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, pages 318 and 319.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Darleene Thorsted at 334-2822.

DATED this 16th day of October, 1998.

Darleene Thorsted  
Executive Director  
Idaho State Board of Medicine  
280 North 8th, Ste. #202  
PO Box 83720  
Boise, ID 83720-0058  
Phone 334-2822  
Fax 334-2801

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**IDAPA 22**  
**TITLE 01**  
**Chapter 03**

**RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS**

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

**The original text was published in the Idaho Administrative Bulletin,  
Volume 98-10, October 7, 1998, pages 318 and 319.**

**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 22 - BOARD OF MEDICINE**  
**22.01.09 - RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS**  
**AND OCCUPATIONAL THERAPY ASSISTANTS**

**DOCKET NO. 22-0109-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-3714(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule: Passage of Senate Bill 1449 amended the OT Practice Act which defined an occupational therapy aide. Requires rule changes to define the occupational aide and the required supervision of the occupational aide by licensed occupational therapists and occupational therapy assistants.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, pages 320 through 324.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Nancy Kerr at 334-2822.

DATED this 16th day of October, 1998.

Darlene Thorsted  
Executive Director  
Idaho State Board of Medicine  
280 North 8th, Ste. #202  
PO Box 83720  
Boise, ID 83720-0058  
Phone 334-2822  
Fax 334-2801

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**IDAPA 22**  
**TITLE 01**  
**Chapter 09**

**RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS**  
**AND OCCUPATIONAL THERAPY ASSISTANTS**

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

**The original text was published in the Idaho**  
**Administrative Bulletin, Volume 98-10, October 7, 1998,**  
**pages 320 through 324.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.01.01 - RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS**

**DOCKET NO. 24-0101-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-312, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, pages 325 through 327.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 01**  
**Chapter 01**

**RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 325 through 327.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS**

**DOCKET NO. 24-0201-9802**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-521, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, pages 328 and 329.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 02**  
**Chapter 01**

**RULES OF THE BOARD OF BARBER EXAMINERS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 328 and 329.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS**

**DOCKET NO. 24-0301-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-707, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and the text of the pending rules with an explanation of the reasons for the change.

The Board has determined that the proposed changes made to Subsection 100.02.b.i. should not be made. The proposed change would have removed the current rule text. The text being published following this notice shows the rule text as it existed prior to the proposed rule change. The remaining Subsections have been renumbered to reflect these changes.

The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, pages 330 and 331.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 03**  
**Chapter 01**

**RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS**

**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 original text was published in the Idaho**

**Administrative Bulletin, Volume 98-10, October 7, 1998,**  
**pages 330 and 331.**

**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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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0301-9801**

**100. APPLICATIONS (Rule 100).**

01. Application. Applications on forms furnished by the Bureau of Occupational Licenses must be on file thirty (30) days before the date of examination, and must be accompanied by an unmounted photograph, size three inches by three inches (3" x 3"), bust only, taken within the year preceding the date of examination. (7-1-93)

02. Qualifications. (7-1-93)

a. New applicants will meet the following requirements: (7-1-93)

i. National Boards Parts I, II, III, and Physiotherapy IV. (~~7-1-93~~)( )

ii. Graduation from a CCE approved college or university. (7-1-93)

iii. Applicants will be required to ~~pass the following subjects of the Idaho Examination: Jurisprudence, Nutrition, X-Ray, Adjustive Technique Practical and Adjustive Technique Written~~ sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24, Title 03, Chapter 01, "Rules of the State Board of Chiropractic Physicians". (~~7-1-93~~)( )

b. Endorsement applicants will meet the following requirements: (7-1-93)

i. National Boards Parts I, II, III and Physiotherapy. (7-1-93)

ii. If licensed prior to January, 1980, CCE approved college or university not required. If licensed after January, 1980, applicant must have graduated from a CCE approved college or university. (7-1-93)

iii. Five (5) years of consecutive experience immediately prior to application and a valid, unrevoked, unsuspended license to practice chiropractic in another state. (7-1-93)

iv. National Board Special Purposes Examination for Chiropractors (SPEC). ( )

iv. Applicants will be required to ~~pass the following subjects of the Idaho Examination: Jurisprudence, Nutrition, X-Ray and Adjustive Technique Written~~ sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24, Title 03, Chapter 01, "Rules of the State Board of Chiropractic Physicians". (~~7-1-93~~)( )

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY**

**DOCKET NO. 24-0401-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-821, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, pages 332 through 350.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 04**  
**Chapter 01**

**RULES OF THE IDAHO BOARD OF COSMETOLOGY**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 332 through 350.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY**

**DOCKET NO. 24-0401-9802**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-821, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, pages 351 through 353.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 04**  
**Chapter 01**

**RULES OF THE IDAHO BOARD OF COSMETOLOGY**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 351 through 353.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.05.01 - RULES OF THE BOARD OF ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS**

**DOCKET NO. 24-0501-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 54-2403 and 54-2405, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, page 354.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 05**  
**Chapter 01**

**RULES OF THE BOARD OF ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998, page 354.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.06.01 - RULES OF THE BOARD OF HEARING AID DEALERS AND FITTERS**

**DOCKET NO. 24-0601-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-2914, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, page 355.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 06**  
**Chapter 01**

**RULES OF THE BOARD OF HEARING AID DEALERS AND FITTERS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998, page 355.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.07.01 - RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS**

**DOCKET NO. 24-0701-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-3003, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, pages 356 and 357.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 07**  
**Chapter 01**

**RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 356 and 357.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS**

**DOCKET NO. 24-0801-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 54-1106 and 54-1107, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, pages 358 and 359.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 08**  
**Chapter 01**

**RULES OF THE STATE BOARD OF MORTICIANS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 358 and 359.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.11.01 - RULES OF THE STATE BOARD OF PODIATRY**  
**DOCKET NO. 24-1101-9801**  
**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 54-605, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, page 360.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 11**  
**Chapter 01**

**RULES OF THE STATE BOARD OF PODIATRY**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998, page 360.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.12.01 - RULES OF THE STATE BOARD OF PSYCHOLOGIST EXAMINERS**

**DOCKET NO. 24-1201-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-2305, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, pages 361 through 365.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 12**  
**Chapter 01**

**RULES OF THE STATE BOARD OF PSYCHOLOGIST EXAMINERS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 361 through 365.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS**

**DOCKET NO. 24-1401-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-3204, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, page 366.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 14**  
**Chapter 01**

**RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998, page 366.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.15.01 - RULES OF THE IDAHO COUNSELOR LICENSING BOARD**

**DOCKET NO. 24-1501-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-3404, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, pages 367 through 369.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 15**  
**Chapter 01**

**RULES OF THE IDAHO COUNSELOR LICENSING BOARD**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 367 through 369.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.16.01 - RULES OF THE STATE BOARD OF DENTURITY**

**DOCKET NO. 24-1601-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-3309, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, page 370.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 16**  
**Chapter 01**

**RULES OF THE STATE BOARD OF DENTURITY**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998, page 370.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD**

**DOCKET NO. 24-1801-9802**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-4106, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, pages 372 through 377.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 18**  
**Chapter 01**

**RULES OF THE REAL ESTATE APPRAISER BOARD**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 372 through 377.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.19.01 - RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS**

**DOCKET NO. 24-1901-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 54-4205, Idaho Code.

**DESCRIPTIVE SUMMARY:** These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 98-10, October 7, 1998, page 378.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of October, 1998.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24**  
**TITLE 19**  
**Chapter 01**

**RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998, page 378.**

**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 26 - DEPARTMENT OF PARKS AND RECREATION**

**26.01.30 - IDAHO SAFE BOATING RULES**

**DOCKET NO. 26-0130-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4223, 67-4249 and 67-7002, 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 the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, pages 379 and 380.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark E. Brandt, at the address or phone number below.

Dated this 28th day of October, 1998.

Mark E. Brandt  
Agency Policy Coordinator  
Idaho Department of Parks and Recreation  
P.O. Box 83720  
Boise, ID 83720-0065  
Phone - (208) 334-4199  
FAX - (208) 334-3741

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**IDAPA 26  
TITLE 01  
Chapter 30**

**IDAHO SAFE BOATING RULES**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 379 and 380.**

**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 26 - DEPARTMENT OF PARKS AND RECREATION**  
**26.01.31 - RULES GOVERNING THE ADMINISTRATION OF THE BOAT SAFETY ACCOUNT**

**DOCKET NO. 26-0131-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4223 and 67-4249, 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 the change.

This chapter is being repealed in its entirety. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, page 381.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark E. Brandt, at the address or phone number below.

Dated this 28th day of October, 1998.

Mark E. Brandt  
Agency Policy Coordinator  
Idaho Department of Parks and Recreation  
P.O. Box 83720  
Boise, ID 83720-0065  
Phone - (208) 334-4199  
FAX - (208) 334-3741

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**IDAPA 26**  
**TITLE 01**  
**Chapter 31**

**RULES GOVERNING THE ADMINISTRATION OF THE BOAT SAFETY ACCOUNT**

**This chapter is being repealed in its entirety.**

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

**The original text was published in the Idaho Administrative Bulletin,  
Volume 98-10, October 7, 1998, page 381.**

**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 26 - DEPARTMENT OF PARKS AND RECREATION**  
**26.01.31 - RULES GOVERNING THE ADMINISTRATION OF IDAHO DEPARTMENT OF PARKS**  
**AND RECREATION RECREATIONAL PROGRAM GRANT FUNDS**

**DOCKET NO. 26-0131-9802**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4223 and 67-4249, 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 the change.

The proposed rules have been amended in response to an internal program audit regarding fiscal processes, 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 Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, pages 382 through 391.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark E. Brandt, at the address or phone number below.

Dated this 28th day of October, 1998.

Mark E. Brandt  
Agency Policy Coordinator  
Idaho Department of Parks and Recreation  
P.O. Box 83720  
Boise, ID 83720-0065  
Phone - (208) 334-4199  
FAX - (208) 334-3741

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**IDAPA 26**  
**TITLE 01**  
**Chapter 31**

**RULES GOVERNING THE ADMINISTRATION OF IDAHO DEPARTMENT OF PARKS**  
**AND RECREATION RECREATIONAL PROGRAM GRANT FUNDS**

**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 98-10, October 7, 1998,  
pages 382 through 391.

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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**THE FOLLOWING IS TEXT OF DOCKET NO. 26-0131-9802**

**250. DISBURSEMENT OF FUNDS.**

01. Allowable Costs. Applicable Office of Management and Budget (OMB) cost principles, program regulations, and the terms of grant agreements shall be followed in determining the reasonableness and allowability of costs. ( )

02. Documentation and System of Internal Controls. The applicant shall maintain a system of internal controls in order to identify the source and disbursement of funds provided for all project costs and match by grant or project. Accounting records shall be supported by source documentation such as vouchers, canceled checks, invoices, payroll, time and attendance records, contract and sub-grant award documents, and other required billing forms. ( )

03. Documentation for Match. Match is the donation of cash, product or service used to complete the grant project as approved. The following types of match may be used: ( )

a. Force account labor and equipment i.e. The use of the grantee's staff (labor) and equipment costs. Documentation of force account shall include: the name of each worker, dates worked, hourly rate of pay, number of hours worked, and the total cost by each person. Documentation of equipment costs shall include the type of equipment used, dates used, hourly rate value, number of hours used, how the hourly rate was determined, and total cost. ( )

b. Donated material that is used as match shall be reasonable and cannot exceed the costs of the materials to the donor or the market price at the time they are charged to the project, whichever is less. A detailed invoice marked "donation" or a letter from the donor shall be used as documentation of donated material. ( )

c. Donated contract labor. When an employer, other than the grantee, furnishes the services of an employee, these services are valued at the employee's regular rate of pay (not including fringe benefits and overhead costs). These services shall be for the same skill for which the employees is normally paid. Documentation shall include the employee's name, dates worked, hourly rate, number of hours worked, and total cost. ( )

d. Rates for volunteers. Skilled and unskilled shall be consistent with the rate regularly paid by the grantee for similar work or shall be consistent with those paid for similar work in the grantee's labor market. If the volunteer is professionally skilled and employed in the work he is performing on the project, the grantee may use the individual's normal wage rate. If the volunteer is unskilled and not professionally employed in the work he is performing the grantee shall value the donated labor at the national minimum wage rate. Documentation shall include the volunteer's name, date worked, hourly rate, number of hours worked, and total cost. ( )

04. Disbursement of Funds. Except as provided in Subsection 250.05 herein, the department shall authorize disbursement of funds allocated to a project on a reimbursement basis. This means that the applicant shall

initially pay all project costs and then seek reimbursement through the department. ( )

a. General. Grantees shall use only the forms specified in this section, and such supplementary or other forms as may from time to time be authorized by the department. ( )

b. Request for reimbursement. Complete an Idaho Department of Parks & Recreation (IDPR), Request for Reimbursement/Close-out Report form. Sign certifying that the data is correct and submit to the applicable recreation program manager. ( )

c. Request for advance. Complete and sign the IDPR Request for Advance form and submit with written justification identifying the need for an advance to the applicable recreation program manager. ( )

d. Extend the due date. The department may extend the due date of any financial report upon receiving a justified request from a grantee. ( )

e. Accounting basis. Each grantee shall report program outlays and program income on a cash or accrual basis pursuant to Generally Accepted Accounting Principles. ( )

05. Cash Advances. When approved for an advance grantees and subgrantees shall be paid in advance no sooner than thirty (30) days prior to project start, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of funds and their disbursement by the grantee or subgrantee. ( )

a. Requesting an advance. A disbursement of funds may be made on an advance basis by submitting an IDPR Request for Advancement form provided by IDPR. Justification for an advance is required unless there is a Memorandum of Understanding on file. ( )

b. Interest earned on advances. Grantees and subgrantees shall promptly, at grant close-out, remit interest earned on advances to the department. ( )

06. Block Grants. Each applicant receiving Recreational Program block grant funds shall remit a complete activities report to the boating law administrator no later than January 31 of each year which shall cover the preceding calendar year and shall be on forms provided by the department. ( )

07. Grant Closeouts. Within forty-five (45) days after the completion of the grant, the grantee shall submit an IDPR Request for Reimbursement/Close-out form and other required documentation and immediately refund to the department any balance of unobligated cash advance and interest earned that is not authorized to be retained for use on other grants. ( )

08. Record Retention. The applicant shall retain all financial information referenced in these rules regarding a project for a time period of three (3) years from the date of the final grant payment, unless any litigation or audit concerning the project has been started or announced. ( )

09. Audit Authority. The department shall have the right of access to any pertinent books, documents, papers, or other records of grantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts. An audit of the award may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due the department. ( )

10. Contingency Fund. The department may retain grant funds from each recreational program grant account for the exclusive purpose of providing facilities or services. ( )



**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

**26.01.32 - RULES GOVERNING THE ADMINISTRATION  
OF THE WATERWAYS IMPROVEMENT FUND**

**DOCKET NO. 26-0132-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4223 and 67-4249, 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 the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, page 392.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark E. Brandt, at the address or phone number below.

Dated this 26th day of October, 1998.

Mark E. Brandt  
Agency Policy Coordinator  
Idaho Department of Parks and Recreation  
P.O. Box 83720  
Boise, ID 83720-0065  
Phone - (208) 334-4199  
FAX - (208) 334-3741

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**IDAPA 26  
TITLE 01  
Chapter 32**

**RULES GOVERNING THE ADMINISTRATION OF THE  
WATERWAYS IMPROVEMENT FUND**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998, page 392.**

**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 26 - DEPARTMENT OF PARKS AND RECREATION**

**26.01.34 - RULES GOVERNING THE ADMINISTRATION  
OF THE RECREATIONAL VEHICLE ACCOUNT**

**DOCKET NO. 26-0134-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4223 and 67-4249, 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 the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, page 393.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark E. Brandt, at the address or phone number below.

Dated this 26th day of October, 1998.

Mark E. Brandt  
Agency Policy Coordinator  
Idaho Department of Parks and Recreation  
P.O. Box 83720  
Boise, ID 83720-0065  
Phone - (208) 334-4199  
FAX - (208) 334-3741

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**IDAPA 26  
TITLE 01  
Chapter 34**

**RULES GOVERNING THE ADMINISTRATION OF THE  
RECREATIONAL VEHICLE ACCOUNT**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998, page 393.**

**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 26 - DEPARTMENT OF PARKS AND RECREATION**  
**26.01.35 - RULES GOVERNING THE OFF-ROAD MOTOR VEHICLE FUND**

**DOCKET NO. 26-0135-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4223 and 67-4249, 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 the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, page 394.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark E. Brandt, at the address or phone number below.

Dated this 26th day of October, 1998.

Mark E. Brandt  
Agency Policy Coordinator  
Idaho Department of Parks and Recreation  
P.O. Box 83720  
Boise, ID 83720-0065  
Phone - (208) 334-4199  
FAX - (208) 334-3741

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**IDAPA 26**  
**TITLE 01**  
**Chapter 35**

**RULES GOVERNING THE OFF-ROAD MOTOR VEHICLE FUND**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998, page 394.**

**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 26 - DEPARTMENT OF PARKS AND RECREATION**  
**26.01.38 - RULES GOVERNING THE ADMINISTRATION OF THE STATE TRUST**  
**FOR OUTDOOR RECREATION ENHANCEMENT (STORE) AND THE RECREATION**  
**AND ENERGY CONSERVATION PATHWAYS (RECP) PROGRAM**

**DOCKET NO. 26-0138-9801**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4223 and 67-4249, 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 the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, page 395.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark E. Brandt, at the address or phone number below.

Dated this 26th day of October, 1998.

Mark E. Brandt  
Agency Policy Coordinator  
Idaho Department of Parks and Recreation  
P.O. Box 83720  
Boise, ID 83720-0065  
Phone - (208) 334-4199  
FAX - (208) 334-3741

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**IDAPA 26**  
**TITLE 01**  
**Chapter 38**

**RULES GOVERNING THE ADMINISTRATION OF THE STATE TRUST**  
**FOR OUTDOOR RECREATION ENHANCEMENT (STORE) AND THE RECREATION**  
**AND ENERGY CONSERVATION PATHWAYS (RECP) PROGRAM**

**This chapter is being repealed in its entirety.**

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

**The original text was published in the Idaho**  
**Administrative Bulletin, Volume 98-10, October 7, 1998, page 395.**

**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 27 - BOARD OF PHARMACY**  
**27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY**  
**DOCKET NO. 27-0101-9802**  
**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1717, 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 the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, pages 396 through 400.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Richard Markuson at (208) 334-2356.

DATED this 29th day of October, 1998.

Richard K. Markuson, Director  
Idaho Board of Pharmacy  
280 N. 8th St., Ste. 204  
Boise, ID 83702

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**IDAPA 27**  
**TITLE 01**  
**Chapter 01**

**RULES OF THE IDAHO BOARD OF PHARMACY**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 396 through 400.**

**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 31 - PUBLIC UTILITIES COMMISSION**

**31.42.01 - RULES FOR TELEPHONE CORPORATIONS SUBJECT TO THE  
REGULATION OF THE IDAHO PUBLIC UTILITIES COMMISSION  
UNDER THE TELECOMMUNICATIONS ACT OF 1988  
(THE TITLE 62 TELEPHONE CORPORATION RULES)**

**DOCKET NO. 31-4201-9801**

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

**EFFECTIVE DATE:** Effective date of the temporary rule is August 10, 1998. These rules have been adopted by the Idaho Public Utilities Commission and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rules become final and effective July 1, 1999, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission adopted pending rules and amended temporary rules. The action is authorized pursuant to the Commission's legal authority under the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code and the Telecommunications Act of 1988, Chapter 6, Title 62, Idaho Code and the specific authority of Sections 62-602, 62-606, 62-611, 62-614, 62-615, 62-616 and 62-622, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rules:

The proposed new rules adopt interconnection and access standards for facilities-based telephone corporations that provide basic local service in new telecommunications development areas.

The proposed rules have been amended in response to public comment and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keeping the temporary rules in place while the pending rules await legislative approval, the Idaho Public Utilities Commission amended the temporary rules with the same revisions which have been made to the proposed rules.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, pages 401 through 404.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact Cheri C. Copsy, Deputy Attorney General at (208) 334-0314.

DATED this 18th day of November 1998.

Myrna J. Walters  
Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720  
Boise, ID 83720-0074  
Telephone: (208) 334-0338  
FAX: (208) 334-3762

Street Address for Express Mail:  
472 West Washington Street  
Boise, ID 83702-5983

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**IDAPA 31  
TITLE 42  
Chapter 01**

**RULES FOR TELEPHONE CORPORATIONS SUBJECT TO THE REGULATION OF THE  
IDAHO PUBLIC UTILITIES COMMISSION UNDER THE  
TELECOMMUNICATIONS ACT OF 1988  
(THE TITLE 62 TELEPHONE CORPORATION RULES)**

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 98-10, October 7, 1998, pages 401 through 404.

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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**THE FOLLOWING IS TEXT OF DOCKET NO. 31-4201-9801**

**RULES 401 THROUGH 500 - ACCESS AND  
INTERCONNECTION STANDARDS IN ~~UNSERVED AREAS~~  
NEW TELECOMMUNICATIONS DEVELOPMENT AREAS**

**401. DEFINITIONS (Rule 401).**

As used in Rules 401 through 412:

(8-10-98)T(8-10-98)T

01. Facilities-based Competitor. "Facilities-based competitor" means a non-incumbent telephone corporation that offers basic local exchange service exclusively over its own telecommunications service facilities or predominantly over its own facilities in combination with the resale of telecommunications services of another carrier. (8-10-98)T

02. Incumbent Telephone Corporation. "Incumbent telephone corporation" means a telephone corporation or its successor which was providing basic local exchange service on or before February 8, 1996. (8-10-98)T

03. Network Element. "Network element" means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service. (8-10-98)T

04. New Telecommunications Development Area. "New telecommunications development area" means a geographic area in which no telephone corporation, including a municipal, cooperative, or mutual non-profit telephone company, has facilities capable of providing basic local exchange service to customers. (8-10-98)T

04.5. Non-incumbent Telephone Corporation. "Non-incumbent telephone corporation" means a telephone corporation which was not providing basic local exchange service on or before February 8, 1996. (8-10-98)T

05. ~~Rural Telephone Company. "Rural telephone company" means a telephone corporation that~~ (8-10-98)T

- a. ~~Provides basic local exchange service to a service area that does not include either:~~ (8-10-98)T
  - i. ~~Any incorporated place of ten thousand (10,000) inhabitants or more, or any part thereof, based on the most recently available population statistics of the bureau of the census; or~~ (8-10-98)T
  - ii. ~~Any territory, incorporated or unincorporated, included in an urbanized area, as defined by the bureau of the census as of August 10, 1993;~~ (8-10-98)T
- b. ~~Provides basic local exchange service including exchange access, to fewer than fifty thousand (50,000) access lines;~~ (8-10-98)T
- e. ~~Provides basic local exchange service to any service area with fewer than one hundred thousand (100,000) access lines; or~~ (8-10-98)T
- d. ~~Has less than fifteen percent (15%) of its access lines in communities of more than fifty thousand (50,000) on the date of enactment of the federal telecommunications act of 1996.~~ (8-10-98)T

06. Telephone Corporation. "Telephone corporation" means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, providing basic local exchange services for compensation within this state, except municipal, cooperative, or mutual nonprofit telephone companies, or telephone corporations providing radio paging, mobile radio telecommunications services, answering services (including computerized or otherwise automated answering or voice message services), or one-way transmission to subscribers of video programming, or other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service or surveying are not included. (8-10-98)T

07. Unbundled Element. "Unbundled element" means a single network element that a competitor telephone corporation may lease on its own, or if the competitor telephone corporation wishes, in combination with other elements. (8-10-98)T

~~08. Unserved Area. "Unserved area" means a geographic area in which no incumbent telephone corporation has facilities providing basic local exchange service to customers.~~ (8-10-98)T

**402. INTERCONNECTION STANDARDS (Rule 402).**

If a facilities-based competitor builds facilities to provide basic local service within an ~~unserved~~ new telecommunications development area, it shall provide interconnection with its network for the facilities and equipment of any telephone corporation requesting the transmission and routing of telephone exchange service. (8-10-98)T(8-10-98)T

**403. EXCHANGE ACCESS QUALITY STANDARDS (Rule 403).**

If a facilities-based competitor builds facilities to provide basic local service within an ~~unserved~~ new telecommunications development area, it shall provide exchange access at any technically feasible point within its network that is ~~at least~~ equal in quality to that provided to itself or to any subsidiary, affiliate, or any other party to which it provides interconnection. (8-10-98)T(8-10-98)T

**404. UNBUNDLED ACCESS STANDARDS (Rule 404).**

If a facilities-based competitor builds facilities to provide basic local service within an ~~unserved~~ new telecommunications development area, it shall provide nondiscriminatory access to network elements to any telephone corporation requesting provision of a telecommunications service on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable and non-discriminatory and shall provide such unbundled network elements in a manner that allows requesting telephone corporations to combine such elements in order to provide basic local exchange service. (8-10-98)T(8-10-98)T

**405. RESALE STANDARDS (Rule 405).**

If a facilities-based competitor builds facilities to provide basic local service within an ~~unserved~~ new telecommunications development area, it shall offer any telecommunications service for resale at wholesale rates that it provides at retail to subscribers who are not telephone corporations and shall not prohibit or impose unreasonable or



discriminatory conditions or limitations on the resale of such telecommunications service. (8-10-98)T(8-10-98)T

**406. PHYSICAL COLLOCATION STANDARDS (Rule 406).**

Subject to Rule 407, if a facilities-based competitor builds facilities to provide basic local service within an unserved new telecommunications development area, it shall provide for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the telephone corporation facilities-based competitor, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory. (8-10-98)T(8-10-98)T

**407. EXEMPTION FOR VIRTUAL COLLOCATION (Rule 407).**

If a facilities-based competitor builds facilities to provide basic local service within an unserved new telecommunications development area, it may provide for virtual collocation if it demonstrates to the commission that physical collocation is not practical for technical reasons or because of space limitations. (8-10-98)T(8-10-98)T

**408. VOLUNTARY NEGOTIATION (Rule 408).**

Upon receiving a request for interconnection, services, or network elements, a facilities-based competitor that built facilities to provide basic local service within an unserved new telecommunications development area may negotiate and enter into a binding agreement with the requesting telephone corporation without regard to the standards set forth in Rules 402 through 407. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement and shall be submitted to the commission for approval. Any party negotiating an agreement under this Rule may, at any point in the negotiation, petition the commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation. (8-10-98)T(8-10-98)T

**409. COMMISSION MEDIATION ARBITRATION. (Rule 409).**

Any party negotiating an agreement under Rule 408 may, at any point in the negotiation, ask the commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation. No earlier than ninety (90) days after the date on which a facilities-based competitor receives a request for negotiation pursuant to Rule 408, any party to the negotiation may petition the commission to arbitrate any open issues. The commission shall provide for the resolution of each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required. (8-10-98)T(8-10-98)T

**410. REFUSAL TO NEGOTIATE (Rule 410).**

The refusal by any party to negotiate pursuant to Rule 408, to cooperate with the commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the commission shall be considered a failure to negotiate in good faith. (8-10-98)T

**411. PETITION FOR SUSPENSION OF RULES 402-410 (Rule 411).**

If any facilities-based competitor that is a rural telephone company petitions the commission to suspend the application of Rules 402 through 410, the commission shall grant the petition and suspend the application of Rules 402 through 410 for a period of not less than three (3) years nor more than five (5) years. (8-10-98)T

**4120. PETITION FOR EXEMPTION FROM RULES 402-410 (Rule 4120).**

Any facilities-based competitor may petition the commission to exempt it from the application of Rules 402 through 410. The commission may grant the petition if the petitioner demonstrates there are functionally equivalent, competitively priced basic local services reasonably available to both residential and small business customers within the unserved area from a telephone corporation unaffiliated with the petitioner, or the petitioner demonstrates exemption is in the public interest. (8-10-98)T(8-10-98)T

**4131. EFFECTIVE DATE (Rule 4131).**

The commission adopted Rules 401 through 413 by Order No. 27674 issued on August 10, 1998, in docket number 31-4201-9801. The effective date for these rules is the date of that Order, August 10, 1998. The effective date for these rules is the date of Order No. 27674, August 10, 1998. (8-10-98)T(8-10-98)T

**4142. -- 999. (RESERVED).**

**IDAPA 35 - STATE TAX COMMISSION**  
**35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0103-9805**  
**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 January 1, 1998, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105A, 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 the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, pages 407 and 408.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan Dornfest, (208) 334-7530.

DATED this 18th day of November, 1998.

Alan Dornfest, 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 01**  
**Chapter 03**

**PROPERTY TAX ADMINISTRATIVE RULES**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 407 and 408.**

**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. 35-0201-9802**

**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 July 1, 1999, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105 and 63-3039, 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 the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, pages 409 and 410.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Janice Boyd, (208) 334-7530.

DATED this 18th day of November, 1998.

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 98-10, October 7, 1998,  
pages 409 and 410.**

**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 37 - DEPARTMENT OF WATER RESOURCES**  
**37.01.02 - ENVIRONMENTAL AUDIT PROTECTION RULES**

**DOCKET NO. 37-0102-9801**

**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 legislative session, unless 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 42-1805(8), 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 the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 98-7, page 210. Pursuant to a statutory sunset clause, the Environmental Audit Protection Act became null and void on December 31, 1997. Because the statutory basis for the Environmental Audit Protection Rules no longer exists, the rules have no further force or effect and are repealed in their entirety.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Phillip J. Rassier at (208)327-7920.

DATED this 16th day of November, 1998.

Karl J. Dreher  
Director  
Idaho Department of Water Resources  
1301 N. Orchard  
P.O. Box 83720  
Boise, Idaho 83720-0098  
Fax: (208)327-7866

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**IDAPA 37**  
**TITLE 01**  
**Chapter 02**

**ENVIRONMENTAL AUDIT PROTECTION RULES**

**This chapter is being repealed in its entirety.**

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

**The original text was published in the Idaho Administrative Bulletin,  
Volume 98-7, July 1, 1998, page 210.**

**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 39 - DEPARTMENT OF TRANSPORTATION**  
**39.03.64 - RULES GOVERNING TOURIST ORIENTED DIRECTIONAL SIGNS (TODS)**

**DOCKET NO. 39-0364-9801**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1999, unless the rule is approved, rejected, 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 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312(3), Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, pages 420 and 421.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Larry VanOver at (208) 334-8558.

DATED this 17th day of November, 1998

Linda L. Emry  
Administrative Secretary  
Idaho Transportation Department  
P O Box 7129  
Boise ID 83707-1129  
Phone: (208) 334-8810  
Fax: (208) 334-8195

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**IDAPA 39**  
**TITLE 03**  
**Chapter 64**

**RULES GOVERNING TOURIST ORIENTED DIRECTIONAL SIGNS (TODS)**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 98-10, October 7, 1998,  
pages 420 and 421.**

**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 46 - BOARD OF VETERINARY MEDICAL EXAMINERS**  
**46.01.01 - RULES OF THE STATE BOARD OF VETERINARY MEDICAL EXAMINERS**

**DOCKET NO. 46-0101-9801**  
**NOTICE OF PENDING RULES**

**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 rules become final and effective July 1, 1999, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 54-2105, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and the text of the pending rules with an explanation of the reasons for the change.

This rule making is necessary in order to move to computerized exams, revise existing fee structure, add fees for licensure of veterinary technicians, and clarify certified euthanasia technician regulations.

In response to public comment, the proposed text in Sections 100 through 106 has been removed from the proposed rule. The current Administrative Code rule, IDAPA 46.01.01, Section 100, "Supervising Veterinarians" will remain as is and Sections 101 through 149 will remain "RESERVED".

The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume No. 98-10, pages 422 through 444.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the proposed rule, contact Sheila Jensen, Administrative Secretary, at (208) 332-8588.

DATED this 29th day of October 1998.

Sheila Jensen  
Administrative Secretary  
Idaho State Board of Veterinary Medical Examiners  
2270 Old Penitentiary Road  
Boise, Idaho 83707  
(208) 332-8588 (Telephone)  
(208) 334-4062 (Facsimile)

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**IDAPA 46**  
**TITLE 01**  
**Chapter 01**

**RULES OF THE STATE BOARD OF VETERINARY MEDICAL EXAMINERS**

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

**No text is being printed in this Bulletin since only proposed language is being removed from the proposed rule. Those Sections that are effected by the changes will remain as is and will not be changed.**

**The complete original text was published in the Idaho Administrative Bulletin, Volume 98-10, October 7, 1998, pages 422 through 444.**

**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 48 - DEPARTMENT OF COMMERCE**  
**48.01.01 - IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)**  
**DOCKET NO. 48-0101-9801**

**NOTICE OF PENDING AND TEMPORARY RULE**

**EFFECTIVE DATE:** The temporary rule is effective November 2, 1998. This rule has been adopted by the Department of Commerce and is now pending review by the 1999 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-fifth 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 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending and temporary rule. The action is authorized pursuant to Section 67-5220(1), Idaho Code and Department of Housing and Urban Development Rules 24 CFR. Pt. 570, Subpart I.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending and temporary rule and a statement of any change between the text of the proposed rule and the text of the pending and temporary rule with an explanation of the reasons for any change.

The adoption of the pending and temporary rule is to confer a benefit to cities and counties wanting to apply for Idaho Community Development Block Grants (ICDBGs). It is estimated federal funding will be available May-June of 1999. To implement a program year, the development and scheduling of project development, grant applications, management and administrative activities for the 1999 program year must be done during the 1998 fall and winter season. Program changes must go into effect immediately so applicants are consistent and in compliance with program changes for the 1999 ICDBG grant cycle.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, October 7, 1998, Volume 98-10, pages 445 through 468.

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

Temporary adoption is necessary to develop program criteria, activities and procedures which will be in full use when the funding is available.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Gloria Mabbutt at (208) 334-2470.

DATED this 16th day of October 1998

Gloria Mabbutt  
Program Manager  
Idaho Department of Commerce  
Division of Community Development  
700 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0093  
Phone: (208) 334-2470  
Fax: (208) 334-2631



**IDAPA 48**  
**TITLE 01**  
**Chapter 01**

**IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)**

**This rule has been adopted by the agency as a temporary rule.**  
**The effective date of the temporary rule is November 2, 1998.**  
**The text of the temporary rule is the same**  
**as the text of the proposed rule.**

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

**The original text was published in the Idaho**  
**Administrative Bulletin, Volume 98-10, October 7, 1998,**  
**pages 445 through 468.**

**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 50 - COMMISSION FOR PARDONS AND PAROLE**  
**50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE**  
**DOCKET NO. 50-0101-9901**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These rules are effective January 1, 1999.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has initiated temporary and proposed rules. The proposed action is authorized pursuant to Section 20-223, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 20, 1999.

Any hearing site will be accessible to the physically handicapped. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five (5) days notice. For arrangements, contact the undersigned at (208) 334-2520.

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

Subsection 250.02.b.vi. will provide more time for newly committed inmates to participate in institution programs prior to the initial parole hearing.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code, and are necessary to confer a benefit to newly committed inmates.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Barbara McIntosh, Commission of Pardons and Parole, P.O. Box 83720, Boise, ID 83720, 208-334-2520.

Anyone can submit written comment regarding the proposed rules. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before January 27, 1999.

Dated this 13th day of November 1998.

Olivia Craven, Executive Director  
Commission of Pardons and Parole  
P.O. Box 83720  
Boise, ID 83720  
208-334-2520

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**THE FOLLOWING IS TEXT OF DOCKET NO. 50-0101-9901**

**250. PAROLE.**

01. Parole Determination. Parole determination is at the complete discretion of the commission. (3-23-98)
  - a. The commission may release an inmate to parole on or after the date of parole eligibility, or not at

- all. (3-23-98)
- b. Parole consideration is evaluated by the individual merits of each case. (3-23-98)
  - c. The commission allows for parole consideration criteria, but no prediction regarding the granting of parole can be based upon any hearing standard or criteria. (3-23-98)
    - i. Seriousness and aggravation and/or mitigation involved in the crime. (3-23-98)
    - ii. Prior criminal history of the inmate. (3-23-98)
    - iii. Failure or success of past probation and parole. (3-23-98)
    - iv. Institutional history to include conformance to established rules, involvement in programs and jobs custody level at time of the hearing, and overall behavior. (3-23-98)
    - v. Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen. (3-23-98)
    - vi. Information or reports regarding physical or psychological condition. (3-23-98)
    - vii. The strength and stability of the proposed parole plan, including adequate home placement and employment or maintenance and care. (3-23-98)
02. Primary Review. A review for the purpose of setting the initial parole hearing will be conducted on all inmates, except those serving a court-retained jurisdiction and those inmates sentenced to death; the commission is not responsible for the setting of a hearing until an official sentence calculation sheet has been received. (3-23-98)
- a. The executive director or a designee will conduct the review following receipt of the sentence calculation from the department of correction, records office. (3-23-98)
  - b. The month and year of the initial parole hearing will be established based upon the sentence calculation. (3-23-98)
    - i. In cases of offenses committed prior to February 1, 1987 or offenses committed after February 1, 1987 with no specified fixed minimum term, the following guideline outlined in "Table 1" will be utilized in scheduling the initial hearings. (3-23-98)

**TABLE 1**

<b>LENGTH OF SENTENCE</b>	<b>MINIMUM TIME TO BE SERVED BEFORE INITIAL HEARING</b>
Three (3) Years of Less	Nine (9) Months
More Than Three (3) Years to Less Than Five (5) Years	Twelve (12) Months
Five (5) Years to Less Than Seven (7) Years	Fifteen (15) Months
Seven (7) Years to Less Than Ten (10) Years	Twenty (20) Months
Ten (10) Years to Less Than Sixteen (16) Years	Twenty-Four (24) Months
Sixteen (16) Years to Less Than Twenty-Six (26) Years	Thirty-Six (36) Months
Twenty-Six (26) Years Up To Life Sentence	Forty-Eight (48) Months
Life Sentence	Sixty (60) Months

(3-23-98)

ii. In cases of offenses committed on or after February 1, 1987, and a minimum fixed term has been specified, the initial hearing may be scheduled prior to the parole eligibility date, during the month of parole eligibility, or as soon as possible if parole eligibility has been reached. (3-23-98)

iii. Consecutive Sentences. All fixed terms will be served before the indeterminate terms commence. (3-23-98)

iv. When more than one (1) sentence is being served concurrently, the initial hearing will not be scheduled until all fixed terms have been served. (3-23-98)

v. If an inmate escapes prior to the primary review or the initial hearing, the review or hearing will be conducted within a reasonable time of notification of the inmate's return, taking into consideration any additional commitments. (3-23-98)

vi. If an inmate is committed to the department of correction and such inmate is eligible for parole immediately or within a short period of time, the initial parole hearing will be scheduled six (6) months from the month the commission was notified of the commitment. (1-1-99)T

c. The commission is not responsible for the accuracy of the sentence calculation as determined by the department of correction, records office. (3-23-98)

03. General Conditions of Parole. The commission establishes rules and conditions for every inmate released to parole, and those conditions are. (3-23-98)

a. Parolee will go directly to the destination approved by the commission and, upon arrival, report as instructed to the parole officer or person whose name and address appear on the arrival notice; any deviation in travel plans will require prior permission from the commission staff. (3-23-98)

b. The parolee shall. (3-23-98)

i. Work diligently in a lawful occupation or a program approved by the commission or supervising officer and not change employment or designated program without written permission from the commission or supervising officer. (3-23-98)

ii. Support dependents to the best of his ability. (3-23-98)

iii. Live within lawful income without incurring unnecessary indebtedness. (3-23-98)

c. The parolee shall submit a complete and truthful report to the assigned parole officer, or other person designated by the commission, on forms available, before the fifth (5th) day of each month, or as otherwise instructed. (3-23-98)

d. If at any time it becomes necessary to communicate with the assigned parole officer or other official designee and he is unavailable, communication will be directed to the district supervisor. (3-23-98)

e. The parolee will: (3-23-98)

i. Obey all municipal, county, state and federal laws. (3-23-98)

ii. Conduct himself, in a manner which is not, nor intended to be, harmful to himself or others. (3-23-98)

iii. Follow written or oral instructions of the parole officer or commission. (3-23-98)

iv. Not purchase, own, sell, or have in his control, to include storing in residence, vehicle, etc., any type of firearm for whatever purpose. (3-23-98)

- v. Not have any dangerous weapons used or intended to be used for other than normal purposes, such as knives for household use. (3-23-98)
- f. The parolee shall: (3-23-98)
  - i. Abstain from excessive use of alcoholic beverages. (3-23-98)
  - ii. Abstain completely from the possession, procurement, use, or sale of narcotics or controlled substances, except as prescribed by a licensed medical practitioner. (3-23-98)
  - iii. Freely cooperate and voluntarily submit to medical and chemical tests and examinations for the purpose of determining if parolee is using or under the influence of alcohol or narcotics, which may be at the parolee's expense. (3-23-98)
  - iv. Participate in treatment programs as specified by the commission or ordered by the parole officer. (3-23-98)
- g. The parolee will submit to a search of person and/or property, to include residence and vehicle, at any time and place, by any agent of field services or the commission, and he does waive his constitutional right to be free from such searches. (3-23-98)
  - h. The parolee is fully advised that written permission is required to: (3-23-98)
    - i. Wilfully change employment; (3-23-98)
    - ii. Wilfully change residence; and (3-23-98)
    - iii. Leave the assigned district. (3-23-98)
  - i. The parolee will make himself available for supervision and will not actively avoid supervision. (3-23-98)
- 04. Special Conditions of Parole. (3-23-98)
  - a. In addition to general rules of parole, the commission may add special conditions appropriate to the individual case. (3-23-98)
    - b. The commission delegates the authority to the executive director to add special conditions, before an inmate has been released to parole or while on parole, once the subject has signed a statement agreeing to the special conditions. (3-23-98)
- 05. Institutional Parole. (3-23-98)
  - a. An inmate committed to the department of correction, who has a consecutive sentence and one (1) or more commitments do not have a fixed minimum term to serve prior to parole eligibility, may be considered for institutional parole while remaining incarcerated. (3-23-98)
  - b. Institutional parole may be considered at the discretion of the commission. (3-23-98)
  - c. While serving institutional parole, the parolee/inmate is subject to all the rules of the housing facility and conditions ordered by the commission, to include, but not be limited to, submitting monthly reports as directed. (3-23-98)
  - d. If rules of the institution or orders of the commission are violated, the executive director or a commissioner will determine when a report of conduct/violation should be submitted. (3-23-98)

- i. In the case of a report of violation, established rules of the violation/revocation process will apply. (3-23-98)
  - ii. The executive director will determine the site of all hearings. (3-23-98)
  - iii. If institutional parole is revoked, the time spent on institutional parole shall be forfeited; however, time served on the consecutive sentence will be credited once that sentence commences to be served. (3-23-98)
  - e. Conversion. Upon release from custody on any subsequent parole or upon completion of the consecutive sentence, and time remains on the institutional parole sentence, there will be an automatic conversion from institutional parole to regular parole, subject to all regular and special conditions of parole. (3-23-98)
06. Unsupervised Parole. In extraordinary cases, the commission may elect to grant an unsupervised parole. (3-23-98)
- a. The parolee will be subject to all regular conditions of parole and any ordered special conditions, with the exception of the regular supervision of a parole officer. (3-23-98)
  - b. Monthly reports must be submitted to the commission office. (3-23-98)
  - c. Communication from the parolee is to be directed to the commission office. (3-23-98)
  - d. At any time, the parolee may be placed under regular supervision of a parole officer. (3-23-98)
07. Medical Parole. The commission may parole an inmate for medical reasons during the determinate portion of a sentence. (3-23-98)
- a. An inmate may be considered for medical parole during the determinate portion of a sentence only when the prisoner is permanently incapacitated or terminally ill and when the commission reasonably believes the prisoner no longer poses a threat to the safety of society. (3-23-98)
  - b. An inmate or designated department of correction personnel may petition the commission to consider medical parole. (3-23-98)
  - c. For any consideration or hearing to consider medical parole, the commission will require specific medical information reference the condition, the treatment or care plan if released, and any other information as deemed necessary. (3-23-98)
  - d. The commission may conduct an actual hearing or review of the case, or may designate commission staff to provide additional information. (3-23-98)
  - e. An annual report will be submitted to the house and senate judiciary committees and will contain the inmates' names, medical condition, current status and crime for which the inmates were incarcerated. (3-23-98)
08. Intensive Supervision. The commission may order a program of intensive supervision which has been designed by and may be amended by the department of correction. (3-23-98)
09. Discharge from Parole. (3-23-98)
- a. When the maximum sentence has expired, a final discharge will be issued by the commission, unless a commission warrant was issued before the full term or the good time release date. (3-23-98)
  - b. The commission may make a final order of discharge prior to completion of the maximum sentence when the commission believes such a discharge is compatible with the parolee's welfare and that of society, and subject to the following requirements. (3-23-98)
    - i. The commission will not consider an early discharge from parole in any case until the parolee has

served at least one (1) year on parole. (3-23-98)

ii. The commission will not consider an early discharge for a parolee who has a sex crime or violent crime until one-third (1/3) of the remaining time from the parole release date to the maximum expiration date has been served on parole; or until five (5) years have been served on parole on a life sentence for any crime. (3-23-98)

iii. A parole officer or other designated agent may petition the commission to consider an early discharge. (3-23-98)

iv. Any decision by the commission to grant an early discharge will not be effective until the official discharge document has been signed by the executive director or a commissioner. (3-23-98)

v. If a decision has been made by the commission to grant an early discharge, and adverse information is received that was not previously available, the document will not be signed and the discharge will not be effective. (3-23-98)

vi. The executive director may issue a commission warrant based upon the new information and the discharge grant will automatically be voided without further action by the commission. (3-23-98)

vii. If the executive director does not issue a warrant, the information will be referred to the commission for reconsideration. (3-23-98)

10. Detainers. (3-23-98)

a. The commission may grant a parole to any county, state, or federal detainer which has been lodged against an inmate. (3-23-98)

i. While in the custody of the detaining jurisdiction, the parolee is subject to all rules of the housing facility and must submit monthly reports to commission staff or others as designated. (3-23-98)

ii. If the parolee is released from custody by the detaining jurisdiction, the parolee must contact the commission office immediately and must report to the nearest probation and parole office within five (5) days of release or as otherwise instructed by the commission staff. (3-23-98)

iii. If the parolee is released from custody by the detaining jurisdiction, the parolee must abide by all regular rules of parole and any special conditions ordered by the commission. (3-23-98)

b. The commission may grant a parole to a federal immigration detainer in order that the inmate may be deported to the country of citizenship. (3-23-98)

i. If the parolee is granted a release on bond or it is determined by the federal authorities that the parolee can remain in the United States, the parolee must contact the commission office immediately and must contact the nearest probation and parole office within five (5) days of release or as otherwise instructed by the commission staff. (3-23-98)

ii. If the parolee is deported from the United States to the country of citizenship, the parolee is not to return to the United States; any such return to the United States during the parole period and after deportation, is considered a violation of the parole contract. (3-23-98)

iii. The commission considers this type of parole grant an unsupervised parole, but the parolee is not obligated to submit monthly reports nor maintain contact with the commission as long as he remains outside of the United States. (3-23-98)

11. Special Progress Reports. A special progress report may be submitted by field supervision personnel to request modification of a special condition of parole, advise of problems that have developed, or to request interstate transfer of a case. (3-23-98)

**IDAPA 50 - COMMISSION FOR PARDONS AND PAROLE**  
**50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE**  
**DOCKET NO. 50-0101-9902**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These rules are effective January 1, 1999.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has initiated temporary and proposed rules. The proposed action is authorized pursuant to Section 20-223, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 20, 1999.

Any hearing site will be accessible to the physically handicapped. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five (5) days notice. For arrangements, contact the undersigned at (208) 334-2520.

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

Subsection 400.10 has been changed to bring the Commission into compliance with 1998 legislative change to Section 20-228, Idaho Code.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code, and are necessary to comply with the law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Barbara McIntosh, Commission of Pardons and Parole, P.O. Box 83720, Boise, ID 83720, 208-334-2520.

Anyone can submit written comment regarding the proposed rules. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before January 27, 1999.

Dated this 13th day of November 1998.

Olivia Craven, Executive Director  
Commission of Pardons and Parole  
P.O. Box 83720  
Boise, ID 83720  
208-334-2520

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**THE FOLLOWING IS TEXT OF DOCKET NO. 50-0101-9902**

**400. PAROLE REVOCATION PROCESS.**

01. Initiated. The parole revocation process is initiated by a written or verbal report describing the rules of parole which are alleged to have been violated. (3-23-98)

a. Verbal information may be provided to the executive director. (3-23-98)



- b. A progress report may be submitted to the executive director. (3-23-98)
- c. A report of violation may be submitted to the executive director. (3-23-98)
- 02. Warrants. A warrant may be issued for the offender's arrest. (3-23-98)
  - a. A supervising agency may issue an investigative warrant which may be referred to as an agent's warrant. (3-23-98)
  - b. A commission warrant may be issued by the executive director or a commissioner, and issuance of this warrant suspends the offender's parole until a determination has been made on the merits of the case. (3-23-98)
    - i. If the location of the parolee is known, the warrant may be served on the offender or placed as a detainer. (3-23-98)
    - ii. If the location of the offender is unknown, the warrant will be entered into NCIC or I-HOT and will designate which states the commission will extradite the offender from once arrested. (3-23-98)
    - iii. If another state is holding the offender in custody on new charges in their state, the warrant may be placed as a detainer only and written notice of this action will be submitted to the holding facility; if the detainer is officially served on the offender without notice of this action to the commission, the commission will not be held responsible for the time limits prescribed by law for service of charges. (3-23-98)
    - iv. If the offender is arrested in a state other than Idaho and refuses extradition to Idaho, it may be necessary to request a governor's warrant; during the time period in which the subject refuses to waive extradition, time incarcerated will not be credited toward the sentence. (3-23-98)
- 03. Due Process. Every parolee arrested on a commission warrant for alleged violation(s) of parole is entitled to pertinent due process. (3-23-98)
  - a. The alleged parole violator is entitled to reasonable notice of the date, time and location of any and all hearings involved in the revocation process. (3-23-98)
  - b. The alleged parole violator has the right to appear at a hearing and address the allegations. (3-23-98)
  - c. The alleged parole violator may confront and cross-examine person(s) who have given adverse information on which the charges have been based. (3-23-98)
- 04. Witnesses. The alleged parole violator or the accusing parole officer may present witnesses in support of the claims of the allegations or in defense of the charges. (3-23-98)
  - a. The commission has no subpoena power to compel any witness to attend a hearing. (3-23-98)
  - b. The alleged parole violator may make a timely written request to the commission office for certain adverse witnesses to be available for cross-examination, and such request must include the name, address, telephone number, and relationship to the case; the hearing officer will make reasonable efforts to request their participation. (3-23-98)
  - c. If it is determined by the hearing officer or the executive director that the identification of an informant or the personal appearance of a witness would subject such person to risk or harm, confrontation or cross-examination will not be allowed and the record will reflect such determination. (3-23-98)
  - d. The personal appearance of a witness may not be feasible; the hearing officer may determine if the witness should be interviewed by telephone and whether the information specifically addresses the allegations. (3-23-98)

e. It is the alleged parole violator's responsibility and the accusing parole officer's responsibility to notify the witnesses of the date, time, and location of any and all hearings or change of hearings. (3-23-98)

05. Attorney. The alleged parole violator may utilize the services of an attorney at any hearing conducted during the revocation process. (3-23-98)

a. An attorney will be paid at the alleged parole violator's expense unless it is determined by a hearing officer for the commission, the executive director, or the commission that there is a colorable claim that the alleged violation(s) did not occur, that the alleged parole violator does not understand the proceedings, or is otherwise incapable of representing himself. (3-23-98)

b. It is the alleged parole violator's responsibility to notify his attorney of the date, time, and location of any and all hearings or change of hearings. (3-23-98)

c. It is the alleged parole violator's responsibility to provide the attorney with any and all reports and documents; in addition, the subject's attorney may also obtain copies by making a request to the commission office. (3-23-98)

06. Hearings. The alleged parole violator will be advised of any and all hearing dates and locations within a reasonable time frame. (3-23-98)

a. The hearing officer or executive director will determine the location of all hearings. (3-23-98)

b. The subject may request continuance or waiver of any hearing which is subject to the final determination of the hearing officer, executive director, or the commission. (3-23-98)

c. The type of charges addressed in the allegations will determine the kinds of hearings available to the alleged parole violator. (3-23-98)

i. Non-Technical violations. If the alleged parole violator is charged with a conviction for a misdemeanor or felony criminal conviction or is charged with absconding from supervision, the subject is not entitled to a preliminary or on-site hearing, and is entitled to a hearing to determine guilt or innocence within a reasonable time following service of the charges. (3-23-98)

ii. Technical violations. If the alleged parole violator is charged with a violation of the rules of parole other than a misdemeanor or felony criminal conviction or absconding from supervision, the subject is entitled to a preliminary hearing and an on-site hearing, and is entitled to a hearing to determine guilt or innocence within thirty (30) days from the date the accused was served with the charges of the violation. (3-23-98)

d. Preliminary hearing. A technical parole violator is entitled to a preliminary hearing to establish whether or not there is probable cause to believe the violations may have occurred, and such hearing will be conducted by staff of field and community services or as otherwise directed by the executive director. (3-23-98)

e. On-Site Hearing. A technical parole violator is entitled to an on-site hearing. (3-23-98)

i. The on-site hearing is conducted reasonably near the site of the alleged parole violation(s). (3-23-98)

ii. In situations where the violation(s) occurred outside the state of Idaho, the executive director or hearing officer will determine the location of the hearing. (3-23-98)

f. Violation hearing. In most cases, a hearing officer will conduct a fact-finding or violation hearing and will make a finding on each allegation as to the guilt or innocence and may dismiss some or all allegations. (3-23-98)

g. Revocation. Pursuant to a violation hearing or waiver of such hearing, the commission will consider

- whether or not parole will be revoked. (3-23-98)
- i. A commission hearing with the offender may be conducted or the decision may be made along with deliberation on an Absentia Parole Revocation. (3-23-98)
  - ii. The commission will consider whether the parole will be revoked. (3-23-98)
  - iii. The commission will consider parole and state the reasoning if parole is not granted. (3-23-98)
  - h. Absentia hearing. The commission can revoke parole without the subject's appearance if the subject has signed the proper commission form waiving the right to appear before the commission. The Commission will determine if parole will be considered once the revocation decision has been made. (3-23-98)
  - i. If new criminal charges result in a new commitment and incarceration, the subject can admit guilt and waive an appearance at a violation or revocation hearing. (3-23-98)
  - ii. If the subject has absconded supervision and is reincarcerated in another state without a new conviction, the subject can admit guilt and waive an appearance at a violation or revocation hearing. (3-23-98)
07. Miscellaneous Revocation Information. (3-23-98)
- a. The executive director will determine who will conduct all hearings involved in the revocation process. (3-23-98)
  - b. The commission, through the executive director shall designate the county, state, or other facility where the alleged parole violator shall be held. The commission's order shall be sufficient authority by law to direct any county sheriff or the board of correction to hold an alleged parole violator in custody until such time as the commission directs his removal or transfer. (3-23-98)
  - c. The alleged parole violator can request a continuance of any hearing. (3-23-98)
  - i. The hearing officer, executive director, or the commission will determine if the continuance will be granted. (3-23-98)
  - ii. If the alleged parole violator requests a continuance of any hearing, he, thereby, waives any and all time limits involved. (3-23-98)
08. Inability to Assist in Defense. (3-23-98)
- a. Specific time limits pertinent to the case may be waived. (3-23-98)
  - b. At the hearing officer or executive director's discretion, an attorney may be appointed at commission expense. (3-23-98)
  - c. A psychological evaluation may be requested and mental health treatment may be deemed appropriate. (3-23-98)
  - d. A status update of the case will be made at regular intervals, and the executive director will determine how the case will proceed. (3-23-98)
09. Findings/Decisions. (3-23-98)
- a. At any time following arrest on a commission warrant, the parole officer may request that the parolee be released to continue parole and the executive director or the commission will decide if the parolee will be released to continue parole. (3-23-98)
  - b. If it is determined at the preliminary hearing that there is no probable cause to support the charges,

the parolee will be released to continue parole. (3-23-98)

c. After a violation hearing, the hearing officer will prepare a report of findings. (3-23-98)

i. The report will be a summary of the violation hearing, to include testimony, and will make specific findings for each allegation. (3-23-98)

ii. The hearing officer may make a finding of guilt but may recommend to the executive director that the offender be reinstated on parole without further proceedings. (3-23-98)

iii. The offender is entitled to receive a copy of all reports of findings of hearings. (3-23-98)

iv. The offender is entitled to a verbal or written decision within twenty (20) days of the hearing. (3-23-98)

10. Forfeiture of Time on Parole. If parole is revoked, the time during which the offender was on parole from the parole release date to the arrest date on an investigative warrant and/or commission warrant ~~will~~ may be forfeited, in whole or in part, and may not be deemed a part of the sentence for which the offender was committed.

~~(3-23-98)~~(1-1-99)T

a. The time the offender is incarcerated on an investigative agent's warrant and a commission warrant will be credited toward the sentence. (3-23-98)

b. If the offender was incarcerated at any time during the parole period and such incarceration was on an agent's warrant and/or commission warrant, this time will be credited toward the sentence; this includes a reinstatement case. (3-23-98)

c. The offender will not receive credit for incarceration time if the incarceration was for a new crime and the commission and parole officer did not initiate violation proceedings. (3-23-98)

d. The offender must provide the hearing officer or the executive director with dates of incarceration and the location of the incarceration. (3-23-98)

**IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)**

**59.01.03 - CONTRIBUTION RULES OF PERSI**

**DOCKET NO. 59-0103-9701**

**NOTICE OF RESCISSION OF TEMPORARY RULE**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has rescinded the rule-making previously initiated under this docket. The action is authorized pursuant to Section 59-1314(1), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for the rescission:

This temporary rule is rescinded effective October 1, 1998. The temporary rate reduction ordered by the Retirement Board for the period beginning October 1, 1997 through September 30, 1998, has been extended with part of the reduction continuing indefinitely. These changes are reflected in temporary and proposed rules in docket number 59-0103-9901, effective October 1, 1998.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation, contact Alan H. Winkle, Executive Director of PERSI, 334-2455.

DATED this 12th day of November, 1998

Alan H. Winkle  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-3365  
FAX: 208-334-3804

**IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)**

**59.01.03 - CONTRIBUTION RULES OF PERSI**

**DOCKET NO. 59-0103-9901**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1997 and October 1, 1998.

**AUTHORITY:** In compliance with Sections 67-5222(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section 59-1314(1), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 20, 1998.

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

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Section 59-1322(1), Idaho Code, requires the Board to establish contribution rates within certain requirements. The Retirement Board has determined, based on actuarial valuation of reserves and liabilities, that it is able to make a temporary reduction in the standard PERSI contribution rates. The Retirement Board has also determined that the standard rate itself be reduced. These reductions will not reduce the contribution rate below the required normal cost and minimum amortization payment rates required by law.

**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:

That this rule change will confer a benefit on PERSI employees and employers.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Alan H. Winkle, Executive Director of PERSI, 334-2455.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before January 27, 1998

DATED this 12th day of November, 1999

Alan H. Winkle  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th St., Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-3365  
FAX: 208-334-3804

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**THE FOLLOWING IS TEXT OF DOCKET NO. 59-0103-9901**

**026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (Rule 26).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll effective with salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998, the PERSI employer contribution rate for general members shall be eleven point ~~sixty-one~~ zero-one percent (11.6401%) unless further modified by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (~~Amended 10-1-98~~) ~~(10-1-98)T~~(10-1-98)T

**027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (Rule 27).**

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

01. Option I and II Firefighters. For option I and II firefighters hired before October 1, 1980, thirty-five point ninety percent (35.90%) of payroll, as follows:

PERSI employer contribution rate: ten point zero-one percent (10.01%) for salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998 the rate will be eleven point twenty-five percent (11.8525%) unless further modified by the Board.

Additional employer rate: One percent (1.00%)

Social Security rate: Seven point sixty-five percent (7.65%)

Excess merger costs: Seventeen point twenty-four percent (17.24%) for salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998 the rate will be sixteen percent (15.6400%) unless further modified by the Board.

TOTAL Contribution: Thirty-five point ninety percent 35.90% ~~(10-1-97)T~~(10-1-98)T

02. Class D Firefighters. For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund) twenty-seven point twenty-five percent (27.25%) of payroll, as follows:

PERSI employer contribution rate: Ten point zero-one percent (10.01%) for salaries paid on or after November 1, 1997 through October 31, 1998.

Effective for salaries paid on or after November 1, 1998 the rate will be eleven point twenty-five percent (11.8525%) unless further modified by the Board.

Excess merger costs: Seventeen point twenty-four percent (17.24%) for salaries paid on or after November 1, 1997 through October 31, 1998.

Effective for salaries paid on or after November 1, 1998 the rate will be sixteen percent (15.6400%) unless further modified by the Board.

TOTAL Contribution: Twenty-seven point twenty-five percent (27.25%)

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (~~Amended 10-1-98~~) ~~(10-1-97)T~~(10-1-98)T

**028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (Rule 28).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police member excluding those listed in Rule 29 of this chapter and firefighters excluding those listed in Rule 27 of this chapter shall be ten point zero-one percent (10.01%) of payroll effective with salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998, the PERSI employer contribution rate shall be eleven point ~~eighty-five~~ twenty-five percent (11.8525%) unless further modified by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (~~Amended 10-1-98~~) ~~(10-1-09)T~~(10-1-98)T

**029. CITY OF IDAHO FALLS CLASS II CONTRIBUTION RATE (Rule 29).**

The City of Idaho Falls employer rate for an employee classified as a police member shall be as follows:

~~(10-1-97)T~~

~~PERSI employer contribution rate: 10.01% for salaries paid on or after November 1, 1997 through October 31, 1998.~~

~~Effective for salaries paid on or after November 1, 1998 the rate will be eleven point eighty five percent (11.85%) equal to the rate provided in Rule 28, unless further modified by the Board.~~

~~Excess merger costs:- 8.50%~~

~~TOTAL Contributions:- 18.51% for salaries paid on or after November 1, 1997 through October 31, 1998.~~

~~Effective for salaries paid on or after November 1, 1998 the rate will be twenty point thirty five percent (20.35%) unless further modified by the Board.~~

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended Retroactively to 7-1-97)  
(~~10-1-97~~)F(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (Rule 100).**

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary effective with salaries paid on or after November 1, 1997 and through October 31, 1998~~9~~. Effective for salaries paid on or after November 1, 1998~~9~~, the PERSI employee contribution rate for general members shall be six point ~~ninety-seven~~ six-zero percent (6.97~~60~~%) unless further modified by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98)  
(~~10-1-97~~)F(10-1-98)T

**101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (Rule 101).**

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police member is seven point twenty-one percent (7.21%) of salary effective with salaries paid on or after November 1, 1997 through October 31, 1998~~9~~. Effective for salaries paid on or after November 1, 1998~~9~~, the PERSI employee contribution rate shall be eight point ~~fifty-three~~ one-zero percent (8.53~~10~~%) unless further modified by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended ~~10-1-97~~) (Amended 10-1-98)  
(~~10-1-97~~)F(10-1-98)T



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