

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

**16.03.09 - MEDICAID BASIC PLAN BENEFITS**

**DOCKET NO. 16-0309-1106**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202(b), and 56-209p, Idaho Code.

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

**Tuesday, October 20, 2011  
6:00 p.m. (Local)**

**Health & Welfare Region VI  
1720 Westgate Drive  
Suite A Rm. 131  
Boise, ID**

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

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

Under Section 56-209p, Idaho Code, the Department is required to pay for midwife services provided to eligible participants through the medical assistance program. Because system changes are needed to add this provider group for Certified Professional Midwife (CPM) Services and time is needed to enroll providers, these proposed rules will be implemented on January 1, 2012. The changes in this docket provide for the administration and policies needed to reimburse for CPM services.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: None.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The anticipated fiscal impact due to this rulemaking is uncertain given the uncertainty of the number of participants who will choose to use Certified Professional Midwife (CPM) services.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is in response to 2011 legislation under HB 165.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jeanne Siroky (208) 364-1897.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2011.

DATED this 8th day of September, 2011.

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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0309-1106**

**011. DEFINITIONS: I THROUGH O.**

For the purposes of these rules, the following terms are used as defined below: (3-30-07)

**01. ICF/ID.** Intermediate Care Facility for People with Intellectual Disabilities. An ICF/ID is an entity licensed as an ICF/ID and federally certified to provide care to Medicaid and Medicare participants with developmental disabilities. (3-30-07)

**02. 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. (3-30-07)

**03. Intermediary.** Any organization that administers Title XIX or Title XXI; in this case the Department of Health and Welfare. (3-30-07)

**04. 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 Sanatorium. (3-30-07)

**05. Legal Representative.** A parent with custody of a minor child, one who holds a legally-executed and effective power of attorney for health decisions, or a court-appointed guardian whose powers include the power to make health care decisions. (3-30-07)

**06. 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. (3-30-07)

**07. Level of Care.** The classification in which a participant is placed, based on severity of need for institutional care. (3-30-07)

**08. Licensed, Qualified Professionals.** Individuals licensed, registered, or certified by national certification standards in their respective discipline, or otherwise qualified within the state of Idaho. (3-30-07)

**09. Lock-In Program.** An administrative sanction, required of a participant found to have misused the services provided by the Medical Assistance Program. The participant is required to select one (1) provider in the identified area(s) of misuse to serve as the primary provider. (3-30-07)

**10. Locum Tenens/Reciprocal Billing.** The practice of a physician to retain a substitute physician when the regular physician is absent for reasons such as illness, pregnancy, vacation, or continuing medical education. The substitute physician is called the "Locum Tenens" physician. Reimbursement to a Locum Tenens physician will be limited to a period of ninety (90) continuous days. Reciprocal billing occurs when a substitute physician covers the regular physician during an absence or on an on-call basis a period of fourteen (14) continuous days or less. (3-30-07)

- 11. Medical Assistance.** Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (3-30-07)
- 12. Medicaid.** Idaho's Medical Assistance Program. (3-30-07)
- 13. Medicaid-Related Ancillary Costs.** For the purpose of these rules, those services considered to be ancillary by Medicare cost reporting principles. Medicaid-related ancillary costs will be determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid participants by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, will be considered Medicaid-related ancillaries. (3-30-07)
- 14. Medical Necessity (Medically Necessary).** A service is medically necessary if: (3-30-07)
- a.** It is reasonably calculated to prevent, diagnose, or treat conditions in the participant that endanger life, cause pain, or cause functionally significant deformity or malfunction; and (3-30-07)
- b.** There is no other equally effective course of treatment available or suitable for the participant requesting the service which is more conservative or substantially less costly. (3-30-07)
- c.** Medical services must be of a quality that meets professionally-recognized standards of health care and must be substantiated by records including evidence of such medical necessity and quality. Those records must be made available to the Department upon request. (3-30-07)
- 15. Medical Supplies.** Items excluding drugs, 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. (3-30-07)
- 16. Midwife. An individual qualified as one of the following:** ( )
- a. Nurse Midwife (NM). An advanced practice professional nurse who is licensed by the Idaho Board of nursing and who meets all the applicable requirements to practice as a nurse midwife under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing."** ( )
- b. Certified Professional Midwife (CPM). An individual who is certified by the North American Registry of Midwives (NARM) and licensed by the Idaho Board of Midwifery under Title 54, Chapter 55, Idaho Code, and IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery."** ( )
- 167. Nominal Charges.** A public provider's charges are nominal where aggregate charges amount to less than one-half (1/2) of the reasonable cost of the services provided. (3-30-07)
- 178. Nonambulatory.** Unable to walk without assistance. (3-30-07)
- 189. Non-Legend Drug.** Any drug the distribution of which is not subject to the ordering, dispensing, or administering by a licensed medical practitioner. (3-30-07)
- ~~**19. Nurse Midwife (NM). A licensed professional nurse (RN) who meets all the applicable requirements to practice as nurse midwife under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing."** (3-30-07)~~
- 20. Nurse Practitioner (NP).** A licensed professional nurse (RN) who meets all the applicable requirements to practice as nurse practitioner under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (3-30-07)
- 21. Nursing Facility (NF).** An institution, or distinct part of an institution, that is primarily engaged in

providing skilled nursing care and related services for participants. It is an entity licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare participants. Participants must require medical or nursing care, or rehabilitation services for injuries, disabilities, or sickness. (3-30-07)

**22. Orthotic.** Pertaining to or promoting the support of an impaired joint or limb. (3-30-07)

**23. Outpatient 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 inpatient hospital care. (3-30-07)

**24. 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. (3-30-07)

**25. 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. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**399. COVERED SERVICES UNDER BASIC PLAN BENEFITS.**

Individuals who are eligible for Medicaid Basic Plan Benefits are eligible for the following benefits, subject to the coverage limitations contained in these rules. Those individuals eligible for services under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," are also eligible for the services covered under this chapter of rules, unless specifically exempted. (5-8-09)

**01. Hospital Services.** The range of hospital services covered is described in Sections 400 through 449 of these rules. (5-8-09)

**a.** Inpatient Hospital Services are described in Sections 400 through 406. (3-30-07)

**b.** Outpatient Hospital Services are described in Sections 410 through 416. (3-30-07)

**c.** Reconstructive Surgery services are described in Sections 420 through 426. (3-30-07)

**d.** Surgical procedures for weight loss are described in Sections 430 through 436. (3-30-07)

**e.** Investigational procedures or treatments are described in Sections 440 through 446. (3-30-07)

**02. Ambulatory Surgical Centers.** Ambulatory Surgical Center services are described in Sections 450 through 499 of these rules. (5-8-09)

**03. Physician Services and Abortion Procedures.** Physician services and abortion procedures are described in Sections 500 through 519 of these rules. (5-8-09)

**a.** Physician services are described in Sections 500 through 506. (3-30-07)

**b.** Abortion procedures are described in Sections 510 through 516. (3-30-07)

**04. Other Practitioner Services.** Other practitioner services are described in Sections 520 through 559 of these rules. (5-8-09)

**a.** Midlevel practitioner services are described in Sections 520 through 526. (3-30-07)

- b. Chiropractic services are described in Sections 530 through 536. (3-30-07)
- c. Podiatrist services are described in Sections 540 through 546~~5~~. ~~(3-30-07)~~( )
- ~~d.~~ Certified professional midwife (CPM) services in Sections 546 through 552. ( )
- ~~d.e.~~ Optometrist services are described in Sections 550~~3~~ through 556. ~~(3-30-07)~~( )
- 05. Primary Care Case Management.** Primary Care Case Management services are described in Sections 560 through 569 of these rules. (5-8-09)
- 06. Prevention Services.** The range of prevention services covered is described in Sections 570 through 649 of these rules. (5-8-09)
- a. Health Risk Assessment services are described in Sections 570 through 576. (3-30-07)
- b. Child wellness services are described in Sections 580 through 586. (3-30-07)
- c. Adult physical services are described in Sections 590 through 596. (3-30-07)
- d. Screening mammography services are described in Sections 600 through 606. (3-30-07)
- e. Diagnostic Screening Clinic services are described in Sections 610 through 616. (3-30-07)
- f. Preventive Health Assistance benefits are described in Sections 620 through 626. (5-8-09)
- g. Nutritional services are described in Sections 630 through 636. (3-30-07)
- h. Diabetes Education and Training services are described in Sections 640 through 646. (3-30-07)
- 07. Laboratory and Radiology Services.** Laboratory and radiology services are described in Sections 650 through 659 of these rules. (5-8-09)
- 08. Prescription Drugs.** Prescription drug services are described in Sections 660 through 679 of these rules. (5-8-09)
- 09. Family Planning.** Family planning services are described in Sections 680 through 689 of these rules. (5-8-09)
- 10. Substance Abuse Treatment Services.** Services for substance abuse treatment are described in Sections 690 through 699 of these rules. (5-8-09)
- 11. Mental Health Services.** The range of covered Mental Health services are described in Sections 700 through 719 of these rules. (5-8-09)
- a. Inpatient Psychiatric Hospital services are described in Sections 700 through 706. (3-30-07)
- b. Mental Health Clinic services are described in Sections 707 through 718. (3-30-07)
- 12. Home Health Services.** Home health services are described in Sections 720 through 729 of these rules. (5-8-09)
- 13. Therapy Services.** Occupational therapy, physical therapy, and speech-language pathology services are described in Sections 730 through 739 of these rules. (5-8-09)
- 14. Audiology Services.** Audiology services are described in Sections 740 through 749 of these rules.

(5-8-09)

**15. Durable Medical Equipment and Supplies.** The range of covered durable medical equipment and supplies is described in Sections 750 through 779 of these rules. (5-8-09)

**a.** Durable Medical Equipment and supplies are described in Sections 750 through 756. (3-30-07)

**b.** Oxygen and related equipment and supplies are described in Sections 760 through 766. (3-30-07)

**c.** Prosthetic and orthotic services are described in Sections 770 through 776. (3-30-07)

**16. Vision Services.** Vision services are described in Sections 780 through 789 of these rules. (5-8-09)

**17. Dental Services.** The dental services covered under the Basic Plan are covered under a selective contract as described in Section 800 through 819 of these rules. (7-1-11)T

**18. Essential Providers.** The range of covered essential services is described in Sections 820 through 859 of these rules. (5-8-09)

**a.** Rural health clinic services are described in Sections 820 through 826. (3-30-07)

**b.** Federally Qualified Health Center services are described in Sections 830 through 836. (3-30-07)

**c.** Indian Health Services Clinic services are described in Sections 840 through 846. (3-30-07)

**d.** School-Based services are described in Sections 850 through 856. (3-30-07)

**19. Transportation.** The range of covered transportation services is described in Sections 860 through 879 of these rules. (5-8-09)

**a.** Emergency transportation services are described in Sections 860 through 866. (3-30-07)

**b.** Non-emergency transportation services are described in Sections 870 through 876. (3-30-07)

**20. EPSDT Services.** EPSDT services are described in Sections 880 through 889 of these rules. (5-8-09)

**21. Specific Pregnancy-Related Services.** Specific pregnancy-related services are described in Sections 890 through 899 of these rules. (5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**545. ~~553.~~ (RESERVED)**

**546. CERTIFIED PROFESSIONAL MIDWIFE (CPM) SERVICES.**

The Department will reimburse Certified Professional Midwives for maternal and newborn services performed within the scope of their practice. This section of rules does not include midlevel practitioner services provided by a nurse midwife (NM) which are described in Sections 522 through 525 of these rules. ( )

**547. CPM SERVICES: DEFINITIONS.**

**01. NARM.** The North American Registry of Midwives, the international certification agency that establishes and administers certification for the CPM credential. ( )

**02. CPM.** A certified professional midwife who is certified by NARM or any successor organization. ( )

**03. Licensed Certified Professional Midwife.** An individual who holds a current license issued by the Idaho Board of Midwifery. ( )

**04. Board of Midwifery.** The Idaho Board of Midwifery is located within the Idaho Bureau of Occupational Licensing and is the licensing authority for CPM providers. ( )

**548. CPM SERVICES: PARTICIPANT ELIGIBILITY.**  
A participant is eligible for CPM services if she is pregnant, in the six (6) week postpartum period, or is a newborn up to six (6) weeks old. ( )

**549. CPM SERVICES: COVERAGE AND LIMITATIONS.**

**01. Maternity and Newborn - Coverage.** Antepartem, intrapartum, and up to six (6) weeks of postpartum maternity and newborn care are covered. ( )

**02. Maternity and Newborn - Limitations.** Maternal or newborn services provided after the sixth postpartum week are not covered when provided by a CPM. ( )

**03. Medication - Coverage and Limitations.** Licensed CPM providers may administer medication and bill Medicaid if the medication is a Medicaid covered service, and is also listed in the CPM formulary in IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." ( )

**550. CPM SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**  
Each CPM provider must: ( )

**01. NARM Certified.** Be certified through NARM. ( )

**02. Licensed.** Have a current license as a CPM from the Idaho Board of Midwifery or be licensed according to the regulations in the state where the services are provided. ( )

**03. Scope of Practice.** Provide only those services that are within the scope of practice under IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." ( )

**551. CPM SERVICES: PROVIDER REIMBURSEMENT.**  
Reimbursement for CPM services will be the lesser of the billed amount, or 85% of the Department's physician fee schedule. The physician fee schedule is available from the Central Office for the Division of Medicaid as described in Section 005 of these rules, or online at: <http://www.idmedicaid.com>. ( )

**552. CPM SERVICES: PROVIDER QUALITY ASSURANCE ACTIVITIES.**

**01. Licensure Required.** Each provider must maintain licensure with the Idaho Board of Midwifery. ( )

**02. Informed Consent Form Required.** A signed copy of the participant's informed consent must be kept in the participant's record. ( )

**03. Compliance with Board of Midwifery Requirements.** The CPM must adhere to all regulations listed in IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." ( )

**04. Department Access to Practice Data.** All practice data submitted to the Board of Midwifery according to the provisions in IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery," must be made immediately available to the Department upon request. ( )

**553. (RESERVED)**