

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO
DOCKET NO. 16-0304-1201
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-203, Idaho Code, and 7 CFR Part 273.1(c).

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

Tuesday - October 23, 2012 - 10 a.m. MDT

**DHW Region IV Office
1720 N. Westgate Drive
Suite A, Room 131
Boise, ID 83704**

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Currently, food stamp benefits for a child are given to the first parent who applies for benefits for the child regardless of the amount of time the child lives in the home. This rule change is necessary to provide a more equitable way of determining food stamp benefits for a child when both parents apply for food stamp benefits for the child, by giving the parent with the primary physical custody the food stamp benefit.

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

These rules confer a benefit to provide that a child receives his food stamp benefit in the home with the parent who has primary custody.

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: N/A

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:

There is no fiscal impact to state general funds for this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is a temporary rule and was not feasible for the Department to negotiate the change.

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 temporary and proposed rule, contact Rosie Andueza at (208) 334-5553.

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 24, 2012.

DATED this 29th day of August, 2012.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0304-1201**

214. JOINT CHILD CUSTODY.

In joint custody situations, children may move from one (1) parent's home to the other parent's home on a regular schedule during the month. If only one (1) parent applies, the child may be included in that parent's household. If both parents apply, they must be told no child can participate in two (2) Food Stamp households in the same month. The parents should decide which household will include the child. Where there are two (2) or more children, the children may be a member of either but not both households. If the parents cannot agree on the child's household for Food Stamps, include the child in the household of the first parent to apply. Assign the shortest allowable certification period. For a child who is under the age of eighteen (18), the parent who has primary physical custody is eligible to receive Food Stamp benefits for that child. If both parents request food stamp benefits for the child, primary custody is determined by where the child is expected to spend fifty-one percent (51%) or more of the nights during a certification period. When only one parent applies for food stamp benefits, the child may be included in that parent's household even though they do not have primary physical custody of the child. ~~(6-1-94)~~(10-1-12)T