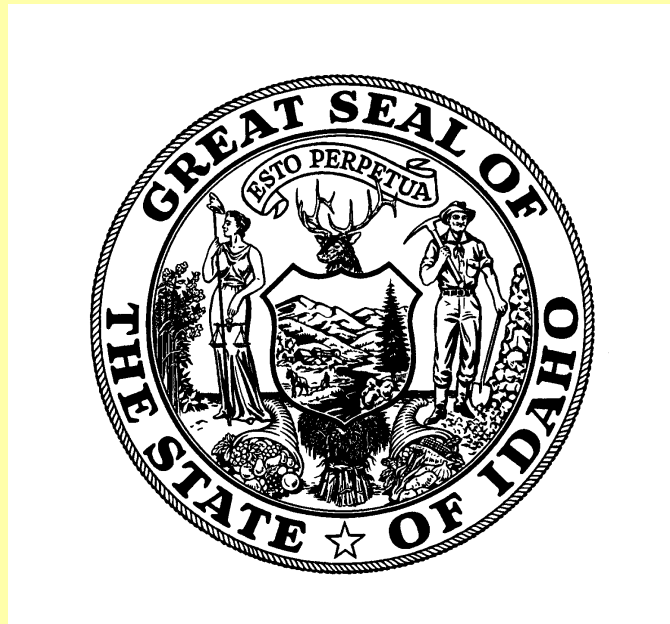


PENDING RULES COMMITTEE RULES REVIEW BOOK

**Submitted for Review Before
Senate Health & Welfare Committee
67th Idaho Legislature
First Regular Session – 2023**



Prepared by:

*Office of the Administrative Rules Coordinator
Division of Financial Management*

January 2023

SENATE HEALTH & WELFARE COMMITTEE

ADMINISTRATIVE RULES REVIEW

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**IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO COMMISSION ON AGING**

15.01.02 – RULES GOVERNING ADULT PROTECTIVE SERVICES PROGRAMS

DOCKET NO. 15-0102-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 67-5003 and 39-5312, 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.

These rules are being presented for authorization as part of the Idaho Commission on Aging’s plan to review each rule every 5 years under [Executive Order 2020-01, Zero-Based Regulation](#). The Commission seeks to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter by collaborating with the public to streamline or simplify language. The Idaho Commission on Aging intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules’ statutory authority and the Governor’s Executive Order.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 5, 2022 Idaho Administrative Bulletin, [Vol. 22, pages 296-299](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Bettina Briscoe, Administrative Services Manager at 208-577-2858.

DATED this 21st day of November, 2022.

Judy B. Taylor
Director
Idaho Commission on Aging
6305 Overland Road Suite 110
Boise, ID 83709
Phone: (208) 334-383

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5003 and 39-5312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

15.01.02 – Rules Governing Adult Protective Services Programs
Topic: 15.01.02 – Rules Governing Adult Protective Services Programs
Time: Oct 18, 2022 10:00 AM Mountain Time (US and Canada)
Join from the meeting link https://us06web.zoom.us/j/84127668389?pwd=enVSUG5wcDk5K3d2cnN2SEoySWlxQT09
Meeting ID: 841 2766 8389 Passcode: 830434 One tap mobile +13462487799,,84127668389#,,,,*830434# US (Houston) +14086380968,,84127668389#,,,,*830434# US (San Jose)
Dial by your location +1 346 248 7799 US (Houston) +1 408 638 0968 US (San Jose) +1 669 444 9171 US +1 669 900 6833 US (San Jose) +1 719 359 4580 US +1 253 215 8782 US (Tacoma) +1 646 876 9923 US (New York) +1 646 931 3860 US +1 301 715 8592 US (Washington DC) +1 309 205 3325 US +1 312 626 6799 US (Chicago) +1 386 347 5053 US +1 564 217 2000 US
Meeting ID: 841 2766 8389 Passcode: 830434
Find your local number: https://us06web.zoom.us/j/84127668389

The meeting will be held via web conferencing in order to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders.

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

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

These rules are being presented for authorization as part of the Idaho Commission on Aging's plan to review each rule every 5 years under [Executive Order 2020-01, Zero-Based Regulation](#). The Commission seeks to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter by collaborating with the public to streamline or simplify language. The Idaho Commission on Aging intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 2, 2022 Idaho Administrative Bulletin, [Volume 22-3 page 14](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Bettina Briscoe, 208-577-2858.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this August 26, 2022.

Substantive changes have been made in the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 15-0102-2201

15.01.02 – RULES GOVERNING ADULT PROTECTIVE SERVICES PROGRAMS

000. AUTHORITY.

Under authority of Sections 67-5003 and 39-5312, Idaho Code, the ICOA adopts the following rules. ()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.01.02, "Rules Governing Adult Protective Services Programs." ()

02. Scope. These rules relate to the authority and responsibilities of Providers to administer adult protective services. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

Any item not specifically defined below has the same meaning as those defined in Idaho Code Title 39 Chapter 53 “Adult Abuse, Neglect, and Exploitation Act” or IDAPA 15.01.01, “15.01.01, “Rules Governing Senior Services and Older Americans Act Programs.” ()

01. Adult Protective Services (APS). The legal and bureaucratic systems and protections safeguarding vulnerable adults through investigations of reports alleging *vulnerable adult maltreatment* and arrangements for the provision of emergency or supportive, and preventative services necessary to reduce or eliminate risk of harm. ()

02. Provider. An Area Agency on Aging or a person or entity capable of providing APS, including duly authorized agents and employees. ()

011. -- 019. (RESERVED)

020. POLICY STATEMENT.

The ICOA is charged by statute to provide APS services to ensure the vulnerable adult population in Idaho is protected from *vulnerable adult maltreatment*. Protective services will be provided that are the least restrictive to personal freedom and ensure the maximum independence of individuals served. In protecting the vulnerable adult population, APS may also provide assistance to *caregivers* experiencing difficulties in maintaining or supporting a vulnerable adults. ()

021. ADMINISTRATIVE REQUIREMENTS.

In accordance with Section 67-5011, Idaho Code, the ICOA will administer APS through contracts with Area Agencies on Aging. ()

022. PROVISION OF SERVICE REQUIREMENTS.

In accordance with Section 67-5011, Idaho Code, each Provider assumes all responsibilities cited in Title 39, Chapter 53, Idaho Code. ()

01. Confidentiality. All records relating to a vulnerable adult and held by a Provider are confidential and shall only be divulged as permitted pursuant to Idaho Code Sections 39-5307 and 39-5308 and Federal Law, whichever is more restrictive. ()

02. Contracts. Each Provider must administer APS pursuant to contracts delineating the duties and obligations of the APS program. ()

03. Court Visitors. Providers shall not serve as a court appointed visitor in a guardianship or conservatorship proceeding involving a proposed ward who is or has been the alleged victim in an *APS* investigation. ()

04. Direct Provision of Service. Area Agencies on Aging will administer APS as a direct service or may subcontract the service to another Provider at the sole discretion of the Administrator. ()

05. Provider Guidance: Provider guidance is developed, modified, and updated by the ICOA with input from appropriate stakeholder groups and approved by the Administrator. Guidance may be modified to adhere to state or federal law or regulations. Guidance may include manuals, training, standardized forms and assessment tools or other documentation as necessary. ()

023. -- 030. (RESERVED)

031. INVESTIGATIVE REQUIREMENTS.

01. Review of Allegations. Upon receipt of an *APS* report of *vulnerable adult maltreatment* the Provider shall conduct a review of the allegations of such report to determine whether: ()

- a. The report was required to be made pursuant to Section 39-5303, Idaho Code; ()
- b. An emergency exists; and ()
- c. In cases involving resident-to-resident contact to determine whether the case involves the sexual abuse, death, or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult, or involves repeated physical or verbal altercations between residents, not resulting in observable physical or mental injury, but constituting an ongoing pattern of resident behavior that a facility's staff is unable to remedy through reasonable efforts. ()

02. Need for Investigation. If, based on its review, the Provider determines that a report involves a facility, and was required to be made to the Department pursuant to Section 39-5303, Idaho Code, the Provider shall immediately refer the report to the Department. If, based on its review, the Provider determines that a report involving resident-to-resident contact was exempted from reporting by Section 39-5303, Idaho Code, no further investigation need be conducted on such report. The Provider shall investigate all other reports. ()

03. Vulnerability Determination. Upon investigating an *APS* report, the Provider shall determine whether an alleged victim is vulnerable. If the alleged victim is determined to be vulnerable the Provider shall continue the investigation to determine if the report is substantiated or unsubstantiated. If the alleged victim is not vulnerable the investigation shall be closed; however, the Provider may provide a referral to Information and Assistance, Case Management, the Ombudsman, law enforcement or other appropriate entity for investigation and resolution. ()

04. Investigative Determinations. The Provider shall make one (1) of two (2) investigative determinations upon completion of an APS investigation: ()

a. Substantiated. A report of *vulnerable adult maltreatment* by another individual is deemed substantiated when, based upon limited investigation and review, the Provider perceives the report to be credible. A substantiated report shall be referred immediately to law enforcement for further investigation and action. Additionally, the name of the individual against whom a substantiated report was filed shall be forwarded to the Department for further investigation. In substantiated cases of self-neglect, the Provider shall initiate appropriate referrals for supportive services with the consent of the vulnerable adult or his legal representative. ()

b. Unsubstantiated. If a report is unsubstantiated, but the Provider determines that the vulnerable adult has unmet service needs, the Provider shall initiate appropriate referrals for supportive or prevention services with consent of the vulnerable adult or their legal representative. ()

05. Caregiver Neglect. In investigating a report of caregiver neglect, the Provider shall take into account any deterioration of the mental or physical health of the caregiver resulting from the pressures associated with care giving responsibilities that may have contributed to the neglect of the vulnerable adult. In such cases, the Provider shall make every effort to assist the informal primary caregiver in accessing available social, supportive or prevention services necessary to reduce the risk to the vulnerable adult. *Formal caregivers may be served at the discretion of the APS provider.* ()

032. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.01.03 – EMERGENCY MEDICAL SERVICES (EMS) – AGENCY LICENSING REQUIREMENTS

DOCKET NO. 16-0103-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 56-1003 and 56-1023, 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 rulemaking adds rule language to IDAPA 16.01.03 that is being relocated from IDAPA 16.01.06, a rule chapter being repealed under a separate rulemaking, Docket No. 16-0106-2201. The Department determined that several small sections in IDAPA 16.01.06 needed to remain in rule, so suitable places were found for them to reside in IDAPA 16.01.03.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 109 and 110](#).

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jathan Nalls at 208-334-4007.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone;
(208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003 and 56-1023, 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 July 20, 2022.

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

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

This rulemaking adds rule language to IDAPA 16.01.03 that is being relocated from IDAPA 16.01.06, a rule chapter being repealed under a separate rulemaking, Docket No. 16-0106-2201. The Department determined that several small sections in IDAPA 16.01.06 needed to remain in rule, so suitable places were found for them to reside in IDAPA 16.01.03.

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

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because no new rules are being added to this chapter. This rulemaking simply preserves several sections of rule deemed necessary from IDAPA 16.01.06 by moving them into this chapter.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The EMS Data Collection Standards Manual, Edition 2023-1, is being incorporated by reference in this docket. It provides the standard for data collection by licensed EMS agencies. This document was previously incorporated into IDAPA 16.01.06 which is being repealed; however, since this document is necessary for the administration of the Idaho EMS program, it being incorporated into this chapter of rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jathan Nalls at (208) 334-4007.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this 8th day of June, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0103-2201

002. INCORPORATION BY REFERENCE.

The Board and the Department of Health and Welfare have incorporated by reference the following documents: ()

01. Minimum Equipment Standards for Licensed EMS Services. ~~The Board of Health and Welfare has adopted the~~ “Minimum Equipment Standards for Licensed EMS Services,” edition 2016, version 1.0, as its is the standard for minimum equipment requirements for licensed EMS Agencies ~~and incorporates it by reference~~. Copies of these standards may be obtained from the Department, see <http://www.idahoems.org>. (3-17-22)()

02. Time Sensitive Emergency System Standards Manual. ~~The Board of Health and Welfare has adopted the~~ “Time Sensitive Emergency System Standards Manual,” Edition 2020-1, as its is the standard for certifying EMS Agencies as TSE Designated EMS Agencies. Copies of these standards may be obtained from the Department, see <https://tse.idaho.gov/>. (3-17-22)()

03. EMS Data Collection Standards Manual. EMS Data Collection Standards Manual, Edition 2023-1 is the standard for data collection by licensed EMS agencies. Copies of the manual may be obtained from the Department at <http://www.idahoems.org/> or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID 83712-8249. ()

(BREAK IN CONTINUITY OF SECTIONS)

535. ~~EMS AGENCY~~—RECORDS, DATA COLLECTION, AND SUBMISSION REQUIREMENTS.

Each licensed EMS agency must ~~comply with the~~ collect and submit EMS response records, ~~data collection, and submission requirements under IDAPA 16.01.06, “Emergency Medical Services (EMS) – Data Collection and Submission Requirements.”~~ to the EMS Bureau as follows: (3-17-22)()

01. Records to be Maintained. Maintain a record that includes a Patient Care Report completed for each EMS Response. ()

02. Records to be Submitted. Ensure that an accurate and complete electronic Patient Care Report (ePCR) is submitted to the EMS Bureau using approved and validated software in a format determined by the Department. ()

03. Time Frame for Submitting Records. Submit each month’s data to the Department by the 15th of the following month in a format determined by the Department. ()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.01.06 – EMERGENCY MEDICAL SERVICES (EMS) – DATA COLLECTION AND SUBMISSION REQUIREMENTS

DOCKET NO. 16-0106-2201 (CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 56-1003 and 56-1023, 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 Department has determined this chapter of rules is no longer needed; it is being repealed in its entirety. However, several Sections of rule deemed necessary are being moving into another EMS chapter, IDAPA 16.01.03, “Emergency Medical Services (EMS) -- Agency Licensing Requirements” under companion Docket No. 16-0103-2201 publishing simultaneously in this Bulletin.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, page 111](#).

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jathan Nalls at 208-334-4007.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone;
(208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003 and 56-1023, 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 July 20, 2022.

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

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

The Department has determined this chapter of rules is no longer needed; it is being repealed in its entirety. However, several Sections of rule deemed necessary are being moving into another EMS chapter, IDAPA 16.01.03, “Emergency Medical Services (EMS) -- Agency Licensing Requirements” under companion Docket No. 16-0103-2201 publishing simultaneously in this Bulletin.

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

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this chapter is being repealed in its entirety.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jathan Nalls at (208) 334-4007.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this 3rd day of June, 2022.

IDAPA 16.01.06 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.08 – VITAL STATISTICS RULES

DOCKET NO. 16-0208-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 39-242, 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.

S1268 passed by the 2022 Legislature provides for a no-fee application for an identification card for people experiencing homelessness. One of the pieces of documentation they may need to establish their identity is a birth certificate. This rulemaking waives the fee for the birth certificate in this specific set of circumstances in order to remove the fee as a barrier to applying for the identification card.

S1320 passed during the 2022 Legislature shifts the presumption of the law regarding adult adoptee access to birth records from a presumption of closure to one of openness. The amended statute allows adoptees, who are adopted on or after July 1, 2022, to access their original birth records once they are eighteen (18) years of age. References to the amended statute are being added to the vital statistics rules in order to maintain consistency with this statutory change.

Changes to text being made at this pending stage are to clarify the proposed language, eliminate obsolete language, and streamline rule text. They do not include any meaningful policy changes to the proposed text.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 112 through 115](#).

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

The fiscal impact for the changes related to S1268 (2022) would be revenue not generated by these requests. Currently, the Department estimates it receives less than 100 such requests per year from persons who are experiencing homelessness. If requests were to increase to 500 per year, it would cost the Department \$8,000 in lost revenue. There is no anticipated cost to rule changes due to S1320 (2022).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Aydelotte, (208) 334-4969.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720

Boise, ID 83720-0036
(208) 334-5500 phone
(208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2022.

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 Section 39-242, 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 July 20, 2022.

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:

S1268 passed by the 2022 Legislature provides for a no-fee application for an identification card for people experiencing homelessness. One of the pieces of documentation they may need to establish their identity is a birth certificate. This rulemaking waives the fee for the birth certificate in this specific set of circumstances in order to remove the fee as a barrier to applying for the identification card.

S1320 passed during the 2022 Legislature shifts the presumption of the law regarding adult adoptee access to birth records from a presumption of closure to one of openness. The amended statute allows adoptees, who are adopted on or after July 1, 2022, to access their original birth records once they are eighteen (18) years of age. References to the amended statute are being added to the vital statistics rules in order to maintain consistency with this statutory change.

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

This new language is being added to align with S1268 (2022) and S1320 (2022). This Temporary rule protects public health, safety, or welfare, and is required to comply with deadlines in amendments to governing law or federal programs.

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

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

The fiscal impact for the changes related to S1268 (2022) would be revenue not generated by these requests. Currently, the Department estimates it receives less than 100 such requests per year from persons who are experiencing homelessness. If requests were to increase to 500 per year, it would cost the Department \$8,000 in lost revenue. There is no anticipated cost to rule changes due to S1320 (2022).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2)(b), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being made to align with legislation passed by the 2022 legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact James Aydelotte, (208) 334-4969.

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 July 27, 2022.

DATED this 3rd day of June, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0208-2201

Substantive changes have been made in the pending rule.
***Italicized red text that is double underscored* indicates changes between**
the text of the proposed rule as adopted in the pending rule.

251. FEES FOR COPIES, SEARCHES, AND OTHER SERVICES.

01. Certified Copies. The fee for the issuance of a certified copy of a death certificate is sixteen dollars (\$16) per copy. This fee incorporates the additional one dollar (\$1) coroner training and education fund fee ~~in~~ accordance with under Section 39-252(2), Idaho Code. The fee for the issuance of a certified copy of any other vital record is sixteen dollars (\$16) per copy. (3-15-22)()

02. Searches. The fee for a search of the files for a record of any vital event when no record is found, no copy is made, or a special document search is requested, is sixteen dollars (\$16). (3-15-22)

03. Verifications. Except for Idaho state agencies and public health districts, the fee for manual or written data verification from a certificate is ten dollars (\$10). (3-15-22)

04. Statistical, Research, or Public Health Services. The State Registrar assesses the fee for statistical, research, or public health services. The costs are calculated based upon the costs of retrieving the data and the costs of compiling, organizing, and printing the data. Cost may be reduced on a prorated basis to reflect the number of expected requests for the same information or service. (3-15-22)()

05. Fees for Other Services. (3-15-22)

a. The fee for filing a report, certificate, or decree of adoption is twenty dollars (\$20). (3-15-22)

b. The fee for establishing a delayed certificate of any vital event is twenty-five dollars (\$25). (3-15-22)

c. For any vital event, the fee for establishing a new certificate due to a court order, a replacement certificate, or an amended certificate is twenty dollars (\$20), except as specified under Subsection 251.05.f.ii. of this rule. (3-15-22)

d. A service fee may be established by the local registration area, in addition to the certified copy fee for each certified copy of a vital record. (3-15-22)

e. The fee for a copy of a certificate of any vital event provided upon written request to local, states other than Idaho, or federal government agencies ~~in accordance with~~ under Section 39-270(b), Idaho Code, is sixteen dollars (\$16). ~~(3-15-22)~~ ()

f. Fees for correction of a certificate of any vital event. (3-15-22)

i. The fee for a replacement certified copy of a certificate of any vital event when the incorrect certified copy is returned for exchange within sixty (60) days of a correction of an error is five dollars (\$5) per certified copy. (3-15-22)

ii. There is no charge for a correction of an error(s) on a certificate of any vital event when the required documentation is received within the first year after the date of the event. (3-15-22)

iii. The fee for correction of an error(s) on a certificate of any vital event, when the required documentation is received one (1) year or more after the date of the event, is twenty dollars (\$20) per submitted correction request. (3-15-22)

g. Fees for priority processing or special handling. (3-15-22)

i. A service fee of ten dollars (\$10) per certificate or document will be added for priority processing or special handling of a request for a certified copy or copies of a certificate of any vital event, a request for a disinterment permit, a request to file a registry form, or a request regarding another vital event related form or document, other than those ~~identified in~~ under Subsection 251.05.g.ii. of this rule. This fee will be in addition to the current fee ~~(s) or fees~~ for each certified copy, search, or filing requested, or any combination thereof. This fee is forfeited and a new service fee must be paid for priority processing or special handling in the event that the requester takes longer than ninety (90) days to respond to a request for additional information, or documentation, or both. ~~(3-15-22)~~ ()

ii. A service fee of twenty-five dollars (\$25) per certificate will be added for priority processing to establish a new or amended certificate of any vital event due to a report, certificate or decree of adoption, delayed certificate filing, a court order, a paternity affidavit or rescission, a subsequent marriage affidavit or a correction of a certificate. This fee is in addition to the current fee ~~(s) or fees~~ for the legal amendment processing or request for a certified copy or copies, or both. This fee is forfeited and a new legal amendment service fee must be paid for priority processing or special handling in the event that the requester takes longer than ninety (90) days to respond to a request for additional information or documentation or both. ~~(3-15-22)~~ ()

06. Waiver of Fee Requirement. ()

a. Fees may be waived for Idaho state agency and public health district administrative use requests. Statistical information prepared for public health planning purposes may be published and distributed without charge whenever the Director determines that the publication and distribution is in the public interest. ~~(3-15-22)~~ ()

b. The fee for a birth certificate may be waived for an individual applying for the Idaho Department of Transportation's no-fee identification available to an individual who is experiencing homelessness. The applicant must have direct and tangible interest, provide a completed vital statistics certificate request form with required identification, and provide a photocopy of the completed verification of homelessness form established and required by the Idaho Department of Transportation. One (1) free birth certificate may be issued for a registrant under this waiver. Subsequent copies will be subject to normal fees. ()

(BREAK IN CONTINUITY OF SECTIONS)

402. REGISTRATION SYSTEM FOR ADULT ADOPTEES.

01. Search for "the Other Birth Parent." The State Registrar will not participate in the search for

“the other birth parent.” The adoption service units of the Department may participate in such searches when requested to do so by a birth parent or the adult adoptee. Costs of the search will be provided by the birth parent or adult adoptee seeking the match. Such service costs will be set by the adoption service unit and are based upon the actual cost of the search and cost of notification of the registrant(s). (3-15-22)

02. Completion of Match. When dated evidence of a completed search is presented to the State Registrar and “the other birth parent” has not been found, then and only then will a match be completed as cited in Section 39-259A(e) and (f), Idaho Code. (3-15-22)

a. When one (1) of the birth parents cannot be found according to Section 39-259A(b)(3), Idaho Code, no information about the missing birth parent will be released to either registrant, except as provided for in Section 39-258(9)(b), Idaho Code. (~~3-15-22~~)()

b. When one (1) birth parent is deceased, proof of death must be established by a certified copy of the death certificate or a verification of the fact of death from the Vital Statistics official of the state where death occurred. Such proof is the responsibility of the registered birth parent. (3-15-22)

03. Siblings of Adult Adoptee. When it appears that there is a match between siblings, the State Registrar may confirm the match from the sealed adoption record on file in the Vital Statistics Office and make appropriate notification to the siblings. However, if the birth parent(s) has not also voluntarily registered, no identifying information about the birth parent(s) will be provided to the adult adoptee or the sibling, except as provided for in Section 39-258(9)(b), Idaho Code, or where proof of death of the birth parent(s) is found. (~~3-15-22~~)()

04. Notification. When it appears to the State Registrar that a match has occurred, the State Registrar will notify the registrants by certified mail of the opportunity to withdraw from the register prior to proceeding with full notification of the registrants. Such withdrawal must be made by written notarized request and be received by the State Registrar within thirty (30) days of the date of registrant’s receipt of notification from the State Registrar. Such withdrawal is exempt from the usual withdrawal fee. (3-15-22)

05. Registration Time. Birth parents or relatives of qualified birth parents may register at any time after an adoption has taken place, regardless of the adoptee’s age. Adoptees may register after they have reached their eighteenth birthday. (3-15-22)

06. Fees. An initial filing fee of ten dollars (\$10) is paid by or on behalf of each registrant and must be submitted with the registration form. An update fee of ten dollars (\$10) is charged whenever a registrant requests in writing a revision, update, or withdrawal of a previous registration. (3-15-22)

07. Release of Information. When it appears there is a match between registered adult siblings and no birth parent information has been registered, before release of identifying information to any registered adult sibling, the State Registrar will require proof from the registrant(s) of the identity and the relationship of the registrant to other registrants. At least two (2) documents providing such proof must be viewed and recorded by the State Registrar. (3-15-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.19 – IDAHO FOOD CODE

DOCKET NO. 16-0219-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 37-121, 39-1603, 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.

Under [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

Changes to text being made at this pending stage are to clarify the proposed language, eliminate obsolete language, and streamline rule text. They do not include any meaningful policy changes to the proposed text.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 30 through 45](#).

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jarryd Samples at 208-334-4994.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 37-121, 39-1603, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Virtual Public Hearing via WebEx
Wednesday, September 14, 2022 1:30 p.m. to 3:30 p.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m242a7c198b591df61f8703f3cab44e7c
Join by meeting number: Meeting number (access code): 2762 996 3055 Meeting password: PgKzK7YCP73 (74595792 from phones and video systems)
Tap to join from a mobile device (attendees only): +1-415-527-5035,,27629963055#74595792# United States Toll +1-303-498-7536,,27629963055#74595792# United States Toll (Denver) Some mobile devices may ask attendees to enter a numeric password
Join by phone: +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)
Join from a video system or application: Dial 27629963055@idhw.webex.com

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

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

In accordance with [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

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

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 65-66](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: The document incorporated by reference in these rules is not being changed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jarryd Samples at (208) 334-4994.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 16-0219-2201

Substantive changes have been made in the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

16.02.19 – IDAHO FOOD CODE

000. LEGAL AUTHORITY.

Sections 37-121 and 39-1603, Idaho Code, *authorize the Board* to adopt rules for the regulation of food establishments to protect public health. ()

001. APPLICABILITY.

01. These Rules Apply to Food Establishments. Food establishments *under* Section 39-1602, Idaho Code, must follow these rules. Those facilities include the following: ()

a. Restaurants, catering facilities, taverns, kiosks, vending facilities, commissaries, cafeterias, mobile food facilities, *and* temporary food facilities; ()

b. Schools, senior centers, hospitals, residential care and treatment facilities, nursing homes, correctional facilities, camps, food banks, and church facilities; ()

c. Retail markets, meat, fish, delicatessen, baker*ies*, supermarkets, convenience stores, health food stores, and neighborhood markets; and ()

d. Food, water and beverage processing and bottling facilities that manufacture, process, and distribute food, water, and beverages, and are not inspected for food safety by a federal agency. ()

02. These Rules Do Not Apply to These Establishments *Under Idaho Code*. ()

- a. Agricultural markets as exempted in Section 39-1602, Idaho Code. ()
- b. Bed-and-breakfast operations that prepare and offer food for breakfast only to guests. The number of guest beds must not exceed ten (10) beds *under* Section 39-1602, Idaho Code. ()
- c. Day care facilities regulated by Sections 39-1101 through 39-1119, Idaho Code. ()
- d. Licensed outfitters and guides regulated by Sections 36-2101 through 36-2119, Idaho Code. ()
- e. Low-risk food establishments, as exempted in Section 39-1602, Idaho Code, which offer only non-TCS foods. ()
- f. Farmers market vendors and roadside stands that only offer or sell non-TCS foods or cottage foods. ()
- g. Non-profit charitable, fraternal, or benevolent organizations that do not prepare or serve food on a regular basis as exempted in Section 39-1602, Idaho Code. Food is not considered to be served on a regular basis if it is not served for more than five (5) consecutive days on no more than three (3) occasions per year for foods *that* are non-TCS. For all other food, it must not be served more than one (1) meal per week. ()
- h. Private homes where food is prepared or served for family consumption or receives catered or home-delivered food as exempted by Section 39-1602, Idaho Code. ()
- i. Cottage food operations, when the consumer is informed and must be provided contact information for the cottage food operations by a clearly legible label on the product packaging; or a clearly visible placard at the sales or service location that also states: ()
 - i. The food was prepared in a home kitchen that is not subject to regulation and inspection by the regulatory authority; and ()
 - ii. The food may contain allergens. ()

03. How to Use This Chapter of Rules. *These* rules are modifications, additions, or deletions made to the federal publication incorporated by reference in Section 002 of these rules. *To* follow these rules the publication is required. Changes to those standards are listed *in these* rules by which section of the incorporated publication is being modified at the beginning of each Section of rule. Citations to the incorporated Food Code are in the format “x-xxx.xx.” ()

002. INCORPORATION BY REFERENCE.

The Department adopted by reference the “Food Code, 2013 Recommendations of the United States Public Health Service Food and Drug Administration,” Publication PB2013-110462, hereafter referred to as the incorporated Food Code. A certified copy of this publication may be reviewed at the main office of the Department. It is also available online at <http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374275.htm>. This publication is being adopted with modifications and additions as follows: ()

01. Chapter 1, Purpose and Definitions. Additions and modifications have been made to this chapter. See Sections 100 - 199 of these rules. ()

02. Chapter 2, Management and Personnel. Modifications have been made to this chapter. See Sections 200 - 299 of these rules. ()

03. Chapter 3, Food. Modifications have been made to this chapter. See Sections 300-399 of these rules. ()

04. Chapter 4, Equipment, Utensils, and Linens. This chapter has been adopted with no

modifications. ()

05. Chapter 5, Water, Plumbing and Waste. This chapter has been adopted with no modifications. ()

06. Chapter 6, Physical Facilities. Modifications have been made to this chapter. See Sections 600-699 of these rules. ()

07. Chapter 7, Poisonous or Toxic Materials. Modifications have been made in this chapter. See Sections 700 - 799 of these rules. ()

08. Chapter 8, Compliance and Enforcement. Modifications have been made in this chapter. See Sections 800-899 of these rules. ()

09. Annexes 1 Through 7 Are Excluded. These sections have not been adopted. ()

003. -- 049. (RESERVED)

050. TRAINING AND INFORMATIONAL MATERIALS.

Section 56-1007, Idaho Code, *authorizes the Department* to establish a reasonable charge for training and informational materials that are provided to the public. ()

051. -- 099. (RESERVED)

100. PURPOSES AND DEFINITIONS.

Sections 100 through 199 of these rules will be used for modifications and additions to Chapter 1 of the incorporated Food Code. ()

101. -- 109. (RESERVED)

110. DEFINITIONS AND ABBREVIATIONS -- A THROUGH K.

The definitions *under* this *Section* are modifications or additions to the definitions provided in the incorporated Food Code. ()

01. Agricultural Market. Any venue where a fixed or mobile retail food establishment can engage in the sale of raw or fresh fruits, vegetables, and nuts in the shell. It may also include the sale of factory sealed non-TCS *foods*. Agricultural market means the same as “farmers market” or “roadside stand.” ()

02. Board. The Idaho Board of Health and Welfare *under* Section 56-1005, Idaho Code. ()

03. Consent Order. *An* enforceable agreement between the regulatory authority and the license holder to correct violations that caused the actions taken by the regulatory authority. ()

04. Core Item. A provision in the incorporated Food Code that is not designated as a priority item or a priority foundation item *and* includes items that usually relate to general sanitation, operation controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance. ()

05. Cottage Food Operation. *When* a person or business prepares or produces cottage food products in the home kitchen of that person's primary residence or other designated kitchen or location. ()

06. Cottage Food Product. *Non-TCS* foods that are sold directly to a consumer. Examples include: baked goods, fruit jams, jellies, fruit pies, breads, cakes, pastries, cookies, candies, confections, dried fruits, dry herbs, seasonings and mixtures, cereals, trail mixes, granola, nuts, vinegar, popcorn and popcorn balls, and cotton candy. ()

07. Department. The Idaho Department of Health and Welfare *under* Section 56-1002, Idaho Code, or its designee. ()

08. **Director.** The Director of the Idaho Department of Health and Welfare *under* Section 56-1003, Idaho Code. ()

09. **Embargo.** An action taken by the regulatory authority that places a food product or equipment used in food production on hold until a determination is made on the product's safety. ()

10. **Enforcement Inspection.** An inspection conducted by the regulatory authority when compliance with these rules by a food establishment is lacking and violations remain uncorrected after the first follow-up inspection to a routine inspection. ()

11. **Farmers Market.** Any fixed or mobile retail food establishment at which farmer producers sell agricultural products directly to the public. Farmers market means the same as “agricultural market” and “roadside stand.” ()

12. **Food Establishment.** Modifications to Section 1-201.10 amend the definition of “food establishment” as follows: ()

a. Delete Subparagraph 3(c) of the term “food establishment” in the incorporated Food Code; ()

b. Add Subparagraph 3(h) to the term “food establishment” to clarify that a cottage food operation is not a food establishment. ()

13. **Food Processing Plant.** Modification to Section 1-201.10 amends the definition of “food processing plant” by deleting Subparagraph 2 of the term “food processing plant” in the incorporated Food Code. ()

14. **Good Retail Practice.** *P*reventive measures that include practices and procedures that effectively control the introduction of pathogens, chemicals, and physical objects into food. ()

15. **High-Risk Food Establishment.** *P*erforms the following: ()

a. Extensive handling of raw ingredients; ()

b. Preparation processes that include the cooking, cooling, and reheating of TCS foods; or ()

c. A variety of processes requiring hot and cold holding of TCS foods. ()

111. DEFINITIONS AND ABBREVIATIONS -- L THROUGH Z.

The definitions *under* this *S*ection are modifications or additions to the definitions provided in the incorporated Food Code. ()

01. **License.** *I*s used in these rules the same as the term “permit” is used in the incorporated Food Code. ()

02. **License Holder.** *I*s used in these rules the same as the term “permit holder” is used in the incorporated Food Code. ()

03. **Low-Risk Food Establishment.** *P*rovides factory-sealed prepackaged non-TCS foods. The establishment may have limited preparation of non-TCS foods only. ()

04. **Medium-Risk Food Establishment.** *I*ncludes the following: ()

a. A limited menu of one (1) or two (2) items; ()

b. Prepackaged raw ingredients cooked or prepared to order; ()

- c. Raw ingredients requiring minimal assembly; ()
- d. Most products are cooked or prepared and served immediately; or ()
- e. Hot and cold holding of TCS foods is restricted to minimal holding between preparation and service. ()

05. Priority Item. A provision in the incorporated Food Code whose application contributes directly to the elimination, prevention, or reduction to an acceptable level, hazards associated with foodborne illness or injury, and there is no other provision that more directly controls the hazard. A priority item includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing, and is an item that is denoted in the incorporated Food Code with a superscript (P). ()

06. Priority Foundation Item. A provision in the incorporated Food Code whose application supports, facilitates, or enables one (1) or more priority items. Priority foundation item includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling. A priority foundation item is an item that is denoted in the incorporated Food Code with a superscript (Pf). ()

07. Regulatory Authority. The Department is the regulatory authority authorized to enforce compliance of these rules. ()

a. The Department is responsible for preparing the rules, rule amendments, standards, policy statements, operational procedures, program assessments, and guidelines. ()

b. The seven (7) Public Health Districts *have been assigned* and the Division of Licensing and Certification *has* been designated by the Director as the regulatory authority for the purpose of issuing licenses, collecting fees, conducting inspections, reviewing plans, determining compliance with the rules, investigating complaints and illnesses, examining food, embargoing food, and enforcing these rules. ()

08. Risk Control Plan. A document describing the specific actions to be taken by the license holder to address and correct a continuing hazard or risk within the food establishment. ()

09. Risk Factor Violation. *I*mproper practices or procedures that are most frequently identified by epidemiologic investigation as a cause of foodborne illness or injury. ()

10. Roadside Stand. Any fixed or mobile retail food establishment at which an individual farmer producer sells *their* own agricultural products directly to consumers. Roadside stand means the same as “agricultural market” and “farmers market.” ()

11. TCS. Time/Temperature Control for Safety. ()

112. -- 199. (RESERVED)

200. MANAGEMENT AND PERSONNEL.

Sections 200 through 299 of these rules will be used for modifications and additions to Chapter 2 of the incorporated Food Code. ()

201. PERSON IN CHARGE.

Modification to Section 2-101.11. The license holder will be the person in charge or will designate a person in charge and will ensure that a person in charge is present at the food establishment during all hours of food preparation and service. ()

202. -- 209. (RESERVED)

210. DEMONSTRATION OF KNOWLEDGE.

Modification to Section 2-102.11. The person in charge of a food establishment may demonstrate knowledge on the risks of foodborne illness or health hazards by one (1) of the following. ()

01. No Priority Violations. Complying with the incorporated Food Code by not having any priority violations at the time of inspection; ()

02. Approved Courses. Completion of the Idaho Food Safety Exam, or an equivalent course designed to meet the same training as the Idaho Food Safety Exam; or ()

03. Certified Food Protection Manager. Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program. ()

211. -- 299. (RESERVED)

300. FOOD.

Sections 300 through 399 of these rules will be used for modifications and additions to Chapter 3 of the incorporated Food Code. ()

301. -- 319. (RESERVED)

320. MEAT AND POULTRY.

01. Custom Meat. Meat that is processed for individual owner(s) by a custom butcher, under the custom exemption in 9 CFR 303.1, “Mandatory Meat Inspection Exemptions,” must be marked “Not For Sale” and may not be sold, served, or given away to any member of the public. This meat must be for the use in the household of such owner(s), their families, non-paying guest, and employees only. ()

02. Poultry Exemption. Poultry that is exempt in 9 CFR 381.10, Subpart C, “Mandatory Poultry Products Inspection Exemptions” may be sold, served, or given away in Idaho, if it is processed in a licensed food processing facility and is labeled “Exempt from USDA Inspection per PL 492.” ()

321. -- 324. (RESERVED)

325. GAME ANIMALS.

Modification to Section 3-201.17(A)(4), is made by deleting Section 3-201.17(A)(4) and replacing it with *this* rule. ()

01. Field Dressed Game Animals. Uninspected wild game animals and wild poultry may be custom-processed or prepared and served upon request by an individual having ownership of the animal. Except as allowed in Subsection 325.04 of this rule, uninspected wild game animals and wild poultry must be processed for or served to that owner and for the family or guests of that individual animal owner only. ()

02. Processing Game Animals. Game animals and birds are to be completely separated from other food during storage, processing, preparation, and service with the use of separate equipment or areas or by scheduling and cleaning, providing there is compliance with the following: ()

a. Slaughtering and cleaning of game animals or birds cannot be done in the food establishment, except for meat processing establishments with kill floors; ()

b. Game animals and other animal carcasses are free of any visible dirt, filth, fecal matter, or hair before such carcasses enter the food establishment, except for meat processing establishments with kill floors; and ()

c. An identifying tag with the owner's name must be on each carcass or divided parts and packaged or wrapped parts; and ()

d. Each carcass or divided parts and packaged or wrapped parts are marked or tagged with a “Not for

sale” label. Except as allowed in Subsection 325.04 of this rule, these may not be sold, given away, or served to any members of the public. ()

03. Uninspected Game Animals. Any uninspected game animals prepared and served in a food establishment may only be prepared and served at the request of the owner of the animals for the owner and invited family or friends at a private dinner. Except as allowed in Subsection 325.04 of this rule, these animals may not be served, sold, or given away to any members of the public. ()

04. Donated Game Meat. Legally harvested game meat may be donated to a food bank or food pantry when the following conditions are met: ()

a. The end recipient of the donated game meat signs an acknowledgment statement indicating that *they are* aware that the meat has been donated and that the meat itself is uninspected, wild-harvested game meat. ()

b. The game meat must have been processed by: ()

i. A facility that is subject to inspection by the regulatory authority with jurisdiction over meat products; ()

ii. The facility packages the game meat into portions that require no further processing or cutting by the food bank or food pantry. ()

c. The meat is labeled by the processor with the following: ()

i. Species identification; ()

ii. The name and address of the meat processing facility; and ()

iii. The words “Processed for Donation or Private Use” and “Cook to 165° F.” ()

326. -- 354. (RESERVED)

355. FOOD PROCESSING PLANTS.

Food processing plants, establishments, canning factories, or operations must meet the requirements in Chapters 1 through 8 of the incorporated Food Code, and this rule. ()

01. Thermal Processing of Low-Acid Foods. Low-acid food products processed using thermal methods for canning must meet the requirements of 21 CFR 113. ()

02. Processing of Acidified Foods. Acidified food products must meet the requirements of 21 CFR 114. ()

03. Bottled Water Processing. Bottled drinking water processed in Idaho must be from a licensed processing facility that meets the requirements of 21 CFR 129. Bottled drinking water must also meet the quality and monitoring requirements in 21 CFR 165. ()

04. Approval of Process Methods. A variance by the regulatory authority must be approved and granted for specialized processing methods for products listed in Section 3-502.11. ()

05. Labels. Proposed labels must be submitted to the regulatory authority for review and approval before printing. ()

06. Testing. The license holder is responsible for chemical, microbiological, or extraneous material testing procedures to identify failures or food contamination of food products being processed or manufactured by the license holder. ()

07. Quality Assurance Program. The license holder or *their designee* must develop and submit to the regulatory authority for review and approval a quality assurance program or HACCP plan *that* covers the food processing operation *and* includes the following: ()

- a. An organization chart identifying the person responsible for quality control operations; ()
- b. A process flow diagram outlining the processing steps from the receipt of the raw materials to the production and packaging of the finished product(s) or group of related products; ()
- c. A list of specific points in the process *that* are critical control points that have scheduled monitoring; ()
- d. Product codes that establish and identify the production date and batch; ()
- e. A manual covering sanitary maintenance of the facility and hygienic practices to be followed by the employees; and ()
- f. A records system allowing for review and evaluation of all operations including the quality assurance program results. These records must be kept for a period of time that exceeds the shelf life of the product by six (6) months or for two (2) years, whichever is less. ()

356. -- 359. (RESERVED)

360. ADVISING CONSUMERS OF HEALTH RISK OF RAW OR UNDERCOOKED FOODS.
Modification to Section 3-603.11. ()

01. Consumption of Animal Foods That Are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens. Except as specified in Section 3-401.11(C) and Subparagraph 3-401.11(D)(3) and under Section 3-801.11(D), if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form as a deli, menu, vended, or other item, or as a raw ingredient in another ready-to-eat food, the license holder must inform the consumers of health risks. ()

02. How to Inform Consumers of Health Risk. The license holder must use any effective means to inform consumers of potential health risks. Some effective ways that may be used to inform consumers are: brochures, deli case placards, signs or verbal warnings that state, "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions." ()

361. -- 369. (RESERVED)

370. ADULTERATED OR MISBRANDED FOOD.
The regulatory authority may order the license holder or other person who has custody of misbranded food to destroy, denature, or recondition adulterated or misbranded food *under* Section 37-118, Idaho Code. See Section 851 of these rules for embargo, tagging, storage, and release of adulterated or misbranded food. ()

371. -- 599. (RESERVED)

600. PHYSICAL FACILITIES.
Sections 600 through 699 of these rules will be used for modifications and additions to Chapter 6 of the incorporated Food Code. ()

601. -- 619. (RESERVED)

620. PRIVATE HOMES AND LIVING OR SLEEPING QUARTERS, USE PROHIBITION.
Modifications to Section 6-202.111. Except for cottage food operations, a private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for

conducting food establishment operations. Residential assisted living facilities designed to be a homelike environment, are exempted from Section 6-202.111. ()

621. -- 699. (RESERVED)

700. POISONOUS OR TOXIC MATERIALS.

Sections 700 through 799 of these rules will be used for modifications and additions to Chapter 7 of the incorporated Food Code. ()

701. -- 719. (RESERVED)

720. RESTRICTION AND STORAGE OF MEDICINES.

Modifications to Section 7-207.11. ()

01. Medicines Allowed in a Food Establishment. Only those medicines that are necessary for the health of employees, patients, or residents in a care facility are allowed in a food establishment. Subsection 720.01 *of this rule* does not apply to medicines that are stored or displayed for retail sale. ()

02. Labeling of Medicines. Medicines that are in a food establishment for the employees, patients, or residents use must be labeled as specified under Section 7-101.11 and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles. ()

721. REFRIGERATED STORAGE OF MEDICINES.

Modification to Section 7-207.12. Medicines belonging to employees, patients, or residents in a care facility that require refrigeration may be stored in a food refrigerator using the following criteria: ()

01. Medicines Stored in a Leak-Proof Container. Medicines must be stored in a package or container and kept inside a covered, leak-proof container that is identified as a container for the storage of medicines. ()

02. Accessibility of Stored Medicines. Medicines will be stored to permit access to self-medicating patients or residents to their individual medication. Authorized staff in a care facility also have access to these medications. ()

722. -- 799. (RESERVED)

800. COMPLIANCE AND ENFORCEMENT.

Sections 800 through 899 of these rules will be used for modifications and additions to Chapter 8 of the incorporated Food Code. ()

801. -- 829. (RESERVED)

830. APPLICATION FOR A LICENSE.

01. To Apply for a Food Establishment License. To apply, the application and fee is submitted to the “regulatory authority” as defined in Section 111 of these rules. ()

02. Food License Expiration. The license for an Idaho food establishment expires on December 31st of each year. ()

03. Renewal of License. A renewal application and a license fee must be submitted to the regulatory authority by December 1st of each year for the next calendar year starting January 1st. ()

04. Summary Suspension of License. A license may be immediately suspended under Section 831 of these rules. Reinstatement of a license after a summary suspension does not require a new application or fee unless the license is revoked. ()

05. Revocation of License. When corrections have been made to a food establishment whose license

has been revoked under Section 860 of these rules, a new application and fee must be submitted to the regulatory authority. ()

06. License is Non-Transferable. A license is not transferable when ownership changes *under* Section 8-304.20 of the incorporated Food Code. ()

831. SUMMARY SUSPENSION OF LICENSE.

The regulatory authority may summarily suspend a license to operate a food establishment when it determines an imminent health hazard exists. ()

01. Reasons a Summary Suspension May Be Issued. When a food establishment does not follow the principles of food safety, a foodborne illness is found, or an environmental health hazard exists and public safety cannot be assured by the continued operation of the food establishment, a summary suspension may be issued. The following are some reasons the regulatory authority may determine a summary suspension is necessary: ()

- a. Inspection of the food establishment shows uncorrected priority violations; ()
- b. Examination of food shows the food is unsafe; ()
- c. Review of records shows that proper steps for food safety have not been met; ()
- d. An employee working with food is suspected of having a disease that is communicable through food; or ()
- e. An imminent health hazard exists. ()

02. Prior Notification Is Not Required for a Summary Suspension. Upon providing a written notice of summary suspension to the license holder or person in charge, the regulatory authority may suspend a food establishment's license without prior warning, notice of hearing, or hearing. ()

03. Written Notice of Summary Suspension. The regulatory authority must give the license holder or person in charge a written notice with the following information when suspending a license. ()

- a. The specific reasons or violations the summary suspension is issued for with reference to the specific section of the incorporated Food Code which is in violation; ()
- b. A statement notifying the food establishment its license is suspended and all food operations are to cease immediately; ()
- c. The name and address of the regulatory authority representative to whom a written request for re-inspection can be made and who can certify the reasons for the suspension have been eliminated; ()
- d. A statement notifying the food establishment of its right to an informal hearing with the regulatory authority upon submission of a written request within fifteen (15) days of receiving the summary suspension notice; ()
- e. A statement informing the food establishment that proceedings for revocation of its license will be initiated by the regulatory authority if violations are not corrected; and ()
- f. The right to appeal to the Department *under* Section 861 of these rules. ()

04. Length of Summary Suspension. The suspension will remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the regulatory authority during a re-inspection. ()

05. Re-Inspection of Food Establishment. The regulatory authority will conduct a re-inspection of the food establishment within two (2) working days of receiving a written request stating the condition for the

suspension no longer exists. ()

06. Reinstatement of License. The regulatory authority will immediately reinstate the suspended license if the re-inspection determines the public health hazard no longer exists. The regulatory authority will provide a written notice of reinstatement to the license holder or person in charge. ()

832. -- 839. (RESERVED)

840. INSPECTIONS AND CORRECTION OF VIOLATIONS.

Modification to Section 8-401.10. ()

01. Inspection Interval Section 8-401.10(A). Except as specified in Section 8-401.10(C), the regulatory authority must inspect a food establishment at least once every twelve (12) months. ()

02. Section 8-401.10(B). This section has not been adopted. ()

03. Section 8-401.10(C). This section is adopted as published. ()

04. Section 8-405.11. This section is adopted with the following modifications: ()

a. Delete Section 8-405.11(B)(1); and ()

b. Amend Section 8-405-11(B)(2) to ten (10) calendar days after the inspection for the permit holder to correct *priority* or *priority foundation* items or HACCP plan deviations. ()

841. INSPECTION SCORES.

The regulatory authority will provide the license holder an inspection report with a total score indicating the number of risk factor violations and the number of repeat risk factor violations added together. Repeat violations are those observed during the last inspection. The inspection report will also score the total number of good retail practice violations and the number of repeat good retail practice violations. These scores will be used to determine if a follow-up inspection or a written report of correction is needed to verify corrections have been made. ()

01. Medium-Risk Food Establishment. If the risk factor violations exceed three (3), or good retail practice violations exceed six (6), an onsite follow-up inspection is required for verification of correction by the regulatory authority. ()

02. High-Risk Food Establishment. If the risk factor violations exceed five (5), or good retail practice violations exceed eight (8), an onsite follow-up inspection is required for verification of correction by the regulatory authority. ()

03. Written Violation Correction Report. A written violation correction report by the license holder may be provided to the regulatory authority if the total inspection score of the food establishment does not exceed those listed in Section 845 of these rules. The report must be mailed within five (5) days of the correction date identified on the inspection report. ()

842. -- 844. (RESERVED)

845. VERIFICATION AND DOCUMENTATION OF CORRECTION.

In addition to Section 8-405.20 of the incorporated Food Code, the onsite follow-up inspection may not be required for verification of correction if the regulatory authority chooses to accept a written report of correction from the license holder. ()

01. Written Report of Correction. The regulatory authority may choose to accept a written report of correction from the license holder stating that specific violations have been corrected. The license holder must submit this report to the regulatory authority within five (5) days after the correction date identified on the inspection report. ()

a. Medium-risk food establishment. If the risk factor violations do not exceed three (3), or the good retail practice violations do not exceed six (6), a follow-up inspection is not required for verification of correction. ()

b. High-risk food establishment. If the risk factor violations do not exceed five (5), or the good retail practice violations do not exceed eight (8), a follow-up inspection is not required for verification of correction. ()

02. Risk Control Plan. The regulatory authority may require the development of a risk control plan as verification of correction. The risk control plan must provide documentation on how the license holder will obtain long-term correction of priority violations that are repeated violations, including how control will be monitored and who will be responsible. ()

846. -- 849. (RESERVED)

850. ENFORCEMENT INSPECTIONS.

01. Follow-Up Inspection. If a follow-up inspection reveals that priority, priority foundation, or core violations identified on a previous inspection have not been corrected or still exist, an enforcement inspection may be made. ()

02. Written Notice. The license holder will receive written notice on the inspection form of the specific date for an enforcement inspection. This date must be within fifteen (15) days of the current or follow-up inspection. ()

03. Enforcement Inspections on Consent Order. When a compliance conference results in a consent order and includes a compliance schedule to correct violations without further regulatory action, all inspections by the regulatory authority to satisfy the compliance schedule will be considered enforcement inspections until the next annual inspection. ()

04. Regulatory Action. If the violations have not been corrected by the date of the enforcement inspection, regulatory action will be initiated to revoke the license issued to the food establishment. ()

851. ENFORCEMENT PROCEDURES FOR ADULTERATED OR MISBRANDED FOOD.

The regulatory authority may order the license holder or other person who has custody of adulterated or misbranded food to destroy, denature, or recondition adulterated or misbranded food *under* Section 37-118, Idaho Code. The following procedures apply: ()

01. Serving an Embargo Order. An embargo order must be served by one (1) of the following ways: ()

a. Delivered personally to the license holder or person in charge of the food establishment; or ()

b. Posted at a public entrance to the food establishment, provided a copy of the notice is sent by first-class mail to the license holder or the person in charge of the embargoed food. ()

02. The Embargo Order Is Effective When Served. The embargo order is effective at the time the notice is delivered to the license holder or person in charge, or when the notice is posted. ()

03. Tagging Embargoed Food. The regulatory authority must securely place an official tag or label on food or containers identified as food subject to the hold order. ()

04. Storage of Embargoed Food. The regulatory authority allows storage of food under conditions specified in the embargo order, unless storage is not possible without risk to the public health. The regulatory authority may order immediate destruction of the adulterated or misbranded food for public safety. ()

05. Removal of Embargo Tag or Label. The removal of the embargo tag, label, or other identification

from food under embargo must be done by the regulatory authority. ()

06. Embargo Release. The issue of release and removal of the embargo tag, label, or other identification from the suspected food when it is not adulterated or misbranded must be done by the regulatory authority. ()

852. -- 859. (RESERVED)

860. REVOCATION OF LICENSE.

The regulatory authority may revoke the license issued to a food establishment when the license holder fails to comply with these rules or the operation of the food establishment is a hazard to public health. ()

01. Reasons a License May Be Revoked. ()

a. The license holder violates any term or condition in Section 8-304.11 of the incorporated Food Code. ()

b. Access to the facility is denied or obstructed by an employee, agent, contractor, or other representative during the performance of the regulatory authority's duties. It is not necessary for the regulatory authority to seek an inspection order to gain access as permitted in Section 8-402.40 of the incorporated Food Code, before proceeding with revocation. ()

c. A public health hazard or priority violation remains uncorrected after being identified by the regulatory authority and an enforcement inspection confirms the violation or hazard still exists. See Section 850 of these rules on enforcement inspections. ()

d. A core violation remains uncorrected after being identified by the regulatory authority and an enforcement inspection confirms the violation still exists. See Section 845 of these rules on verification and documentation of correction. ()

e. Failure to comply with any consent order issued after a compliance conference. See Section 861 of these rules on compliance conference. ()

f. Failure to comply with a regulatory authority's summary suspension order. See Section 831 of these rules on summary suspension of a license. ()

g. Failure to comply with an embargo order. See Section 851 of these rules on adulterated or misbranded food. ()

h. Failure to comply with a regulatory authority order issued when an employee is suspected of having a communicable disease. See Chapter 2 of the incorporated Food Code on employee health. ()

02. Notice to Revoke a License. The regulatory authority must notify the license holder of the food establishment in writing of the intended revocation of the license. See Section 861 of these rules for appeal process. The notice must include Subsections 860.02.a. through 860.02.c. of this rule: ()

a. The specific reasons and Sections of the Idaho Food Code *that* are in violation and the cause for the revocation; ()

b. The right of the license holder to request in writing a compliance conference with the regulatory authority within fifteen (15) days of the notice; and ()

c. The right of the license holder to appeal in writing to the Department. See Subsection 861.02 of these rules. ()

d. The following is sufficient notification of the license holder's appeal rights: "You have the right to request in writing a compliance conference with (name and address of designated health district official) within

fifteen (15) days of the receipt of this notice. You may also appeal the revocation of your license to the Director by filing a written appeal with the Department as provided in IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings,” within fifteen (15) days of the receipt of this notice, or if a timely request is made for a compliance conference and the matter is not resolved by a consent order, within five (5) working days following the conclusion of the compliance conference.” ()

03. Effective Date of Revocation. The revocation will be effective fifteen (15) days following the date of service of notice to the license holder, unless an appeal is filed or a timely request for a compliance conference is made. If a compliance conference is requested and the matter is not resolved by a consent order, the revocation will be effective five (5) working days following the end of the conference, unless an appeal is filed with the Director within that time. See Section 861 of these rules for compliance conference, consent order, and appeal process. ()

861. APPEAL PROCESS.

A license holder may appeal a summary suspension, notice of revocation, other action, or failure to act by the regulatory authority *that* adversely affects the license holder. A summary suspension or other emergency order is not stayed during the appeal process. ()

01. Compliance Conference. The license holder may request in writing a compliance conference with the regulatory authority within fifteen (15) days of receipt of the notice or action by the regulatory authority. If a timely request for a compliance conference is made, a compliance conference will be scheduled within twenty (20) days and conducted in an informal manner by the regulatory authority. At the compliance conference the license holder may explain the circumstances of the alleged violations and propose a resolution for the matter. ()

a. If the compliance conference results in an agreement between the license holder and the regulatory authority to remedy circumstances giving rise to the action and to assure future compliance, the agreement must be put in written form and signed by both parties. This written agreement constitutes an enforceable consent order. ()

b. Unless otherwise specifically stated in the consent order, the agreement will be for the duration of the existing license only. ()

02. Appeal to the Director. The license holder may appeal in writing to the Director within fifteen (15) days of receipt of the notice of action by the regulatory authority, or if a timely request for a compliance conference was made, within five (5) working days following the completion of the compliance conference. ()

862. -- 889. (RESERVED)

890. CRIMINAL AND CIVIL PROCEEDINGS.

The regulatory authority may choose to enforce the provisions of these rules and its administrative orders through the courts. ()

01. Criminal Proceedings. Misdemeanor proceedings to enforce these rules, federal regulations, and the enabling statutes may be instituted as provided in Sections 37-117, 37-119, 37-2103, and 56-1008, Idaho Code. These statutes provide for fines or terms of imprisonment that may be sought through the court of competent jurisdiction. ()

02. Civil Proceedings. Civil enforcement actions may be commenced and prosecuted in the district court in the county where the alleged violation occurred *under* Sections 56-1009 and 56-1010, Idaho Code. The person who is alleged to have violated any statute, rule, federal regulation, license, or order may be charged in the court proceeding. This action may be brought to compel compliance with these rules, regulations, license, or order for relief or remedies authorized in these rules. ()

03. Injunctive Relief. In addition to other remedies provided by law, Section 56-1009, Idaho Code, allows for a search warrant to gain access and injunctions to be issued in the name of the state against any person or entity to enjoin them from violating these rules, regulations, statutes, or administrative orders. ()

891. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.02 – SKILLED NURSING FACILITIES

DOCKET NO. 16-0302-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 39-1306, 39-1307, 39-1307A, and 39-1307B, 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 change was requested by skilled nursing facilities and the Idaho Health Care Association. With the current demand for licensed nurses in all health care settings, skilled nursing facilities are challenged in their efforts to retain licensed/certified direct care workers. Through informal negotiations, the Department has determined that allowing Certified Medication Assistants (MA-C) to administer medications will help support facilities with their staffing challenges without compromising the health and safety of the residents in facilities.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 46 through 50](#).

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

This rule change is budget neutral. There is no cost associated with adding MA-Cs as staff allowed to administer medications.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Laura Thompson, (208) 364-1874.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2022.

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 39-1306, 39-1307, 39-1307A, and 39-1307B, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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:

This change was requested by skilled nursing facilities and the Idaho Health Care Association. With the current demand for licensed nurses in all health care settings, skilled nursing facilities are challenged in their efforts to retain licensed/certified direct care workers. Through informal negotiations, the Department has determined that allowing Certified Medication Assistants (MA-C) to administer medications will help support facilities with their staffing challenges without compromising the health and safety of the residents in facilities.

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

This rulemaking confers a benefit to skilled nursing facilities.

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

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

This rule change is budget neutral. There is no cost associated with adding MA-Cs as staff allowed to administer medications.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2)(b), Idaho Code, formal negotiated rulemaking was not conducted as this rule change is simple in nature and is being done at the request of the primary stakeholders. The content of this rulemaking is a result of informal negotiations conducted with stakeholders.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Laura Thompson, (208) 364-1874.

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 September 28, 2022.

DATED this 5th day of August, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0302-2201

200. NURSING SERVICES.

The following requirements must be met: (3-17-22)

01. Director of Nursing Services (DNS). A licensed registered nurse currently licensed by the state of Idaho and qualified by training and experience is designated DNS in each SNF and is responsible and accountable for the following: (3-17-22)

a. Participating in the development and implementation of resident care policies; (3-17-22)

b. Developing and/or maintaining goals and objectives of nursing service, standards of nursing practice, and nursing policy and procedures manuals; (3-17-22)

c. Assisting in the screening and selection of prospective residents in terms of their needs, and the services available in the facility; (3-17-22)

d. Observing and evaluating the condition of each resident and developing a written, individualized patient care plan that is based upon an assessment of the needs of each resident, and that is kept current through review and revision; (3-17-22)

e. Recommending to the administrator the numbers and categories of nursing and auxiliary personnel to be employed and participating in their recruitment, selection, training, supervision, evaluation, counseling, discipline, and termination when necessary. Developing written job descriptions for all nursing and auxiliary personnel; (3-17-22)

f. Planning and coordinating orientation programs for new nursing and auxiliary personnel, as well as a formal, coordinated in-service education program for all nursing personnel; (3-17-22)

g. Preparing daily work schedule for nursing and auxiliary personnel that includes names of employees, professional designation, hours worked, and daily patient census; and (3-17-22)

h. Coordinating the nursing service with related resident care services; (3-17-22)

02. Minimum Staffing Requirements. That minimum staffing requirements include the following: (3-17-22)

a. A Director of Nursing Services (DNS) works full time on the day shift but the shift may be varied for management purposes. If the DNS is temporarily responsible for administration of the facility, there is a licensed registered nurse (RN) assistant to direct patient care. The DNS is required for all facilities five (5) days per week. (3-17-22)

i. The DNS in facilities with an average occupancy rate of sixty (60) residents or more has strictly nursing administrative duties. (3-17-22)

ii. The DNS, in facilities with an average occupancy rate of fifty-nine (59) residents or less may, in addition to administrative responsibilities, serve as the supervising nurse. (3-17-22)

b. A supervising nurse, licensed registered nurse, or a licensed practical nurse, and who meets the

requirements designated by the Idaho Board of Nursing to assume responsibilities as a charge nurse and meets the definition in Subsection 002.35. (3-17-22)

c. A charge nurse, a licensed registered, or a licensed practical nurse, and who meets the requirements designated by the Idaho Board of Nursing to assume responsibilities as a charge nurse in accordance with the definition in Subsection 002.07. A charge nurse is on duty as follows: (3-17-22)

i. In SNFs with an average occupancy rate of fifty-nine (59) residents or less a licensed registered nurse is on duty eight (8) hours of each day and no less than a licensed practical nurse is on duty for each of the other two (2) shifts. (3-17-22)

ii. In SNFs with an average occupancy rate of sixty (60) to eighty-nine (89) residents a licensed registered nurse is on duty for each a.m. shift (approximately 7:00 a.m. - 3:00 p.m.) and p.m. shift (approximately 3:00 p.m. to 11:00 p.m.) and no less than a licensed practical nurse on the night shift. (3-17-22)

iii. In SNFs with an average occupancy rate of ninety (90) or more residents a licensed registered nurse is on duty at all times. (3-17-22)

iv. In those facilities authorized to utilize a licensed practical nurse as charge nurse, the facility must make documented arrangements for a licensed registered nurse to be on call for these shifts to provide professional nursing support. (3-17-22)

d. Nursing hours per resident per day are provided to meet the total needs of the residents. The minimum staffing is as follows: (3-17-22)

i. Skilled Nursing Facilities with a census of fifty-nine (59) or less residents provide two and four-tenths (2.4) hours per resident per day. Hours do not include the DNS but the supervising nurse on each shift may be counted in the calculations of the two and four-tenths (2.4) hours per resident per day. (3-17-22)

ii. Skilled Nursing Facilities with a census of sixty (60) or more residents provide two and four-tenths (2.4) hours per resident per day. Hours do not include the DNS or supervising nurse. (3-17-22)

iii. Nursing hours per resident per day are required seven (7) days a week with provision for relief personnel. (3-17-22)

iv. Skilled Nursing Facilities are considered in compliance with the minimum staffing ratios if, on Monday of each week, the total hours worked by nursing personnel for the previous seven (7) days equal or exceed the minimum, staffing ratio for the same period when averaged on a daily basis and the facility has received prior approval from the Licensing Agency to calculate nursing hours in this manner. (3-17-22)

e. Combined Hospital and Skilled Nursing Facility. In a combined facility the DNS may serve both the hospital and long term care unit with supervising and charge nurses as required under Subsection 200.02.b. and 200.02.c. In a combined facility of less than forty-one (41) beds, the supervising or charge nurse may be an LPN. Combined beds (forty-one (41) or less) represent the total number of acute care (hospital) and long term care (nursing home) beds. (3-17-22)

f. Waiver of Licensed Registered Nurse as Supervising or Charge Nurse. In the event that a facility is unable to hire licensed registered nursing personnel to meet these regulation requirements, a licensed practical nurse will satisfy the requirements so long as: (3-17-22)

i. The facility continues to seek a licensed registered nurse at a compensation level at least equal to that prevailing in the community; (3-17-22)

ii. A documented record of efforts to secure employment of licensed registered nursing personnel is maintained in the facility; (3-17-22)

iii. The facility maintains at least forty (40) hours a week R.N. coverage. (3-17-22)

g. There is at least two (2) nursing personnel on duty on each shift to ensure resident safety in the event of accidents, fires, or other disasters. (3-17-22)

h. Nursing care is given only by licensed staff, nursing personnel, and auxiliary nursing personnel. (3-17-22)

03. Resident Care. That nursing staff must document on the resident medical record, any assessments of the resident, any interventions taken, effect of interventions, significant changes and observations, and the administration of medications, treatments, and any other services provided, and entries made at the time the action occurs with signature, date and time. At a minimum, a monthly summary of the resident's condition and reactions to care must be written by a licensed nursing staff person. (3-17-22)

04. Medication Administration. Medications must be provided to residents by licensed nursing staff ~~in accordance with~~ or certified medication assistants (MA-C) per established written procedures that includes at least the following: (3-17-22)()

a. Administered ~~in accordance with~~ per physician's, dentist's, or nurse practitioner's written orders; (3-17-22)()

b. The resident is identified prior to administering the medication; (3-17-22)

c. Medications are administered as soon as possible after preparation; (3-17-22)

d. Medications are administered only if properly identified; (3-17-22)

e. Medications are administered by the person preparing the medication for delivery to the resident (exception: Unit dose); (3-17-22)

f. Residents are observed for reactions to medications and if a reaction occurs, it is immediately reported to the charge nurse and attending physician; (3-17-22)

g. Each resident's medication is properly recorded on their individual medication record by the person administering the medication. The record includes: (3-17-22)

i. Method of administration; (3-17-22)

ii. Name and dosage of the medication; (3-17-22)

iii. Date and time of administration; (3-17-22)

iv. Site of injections; (3-17-22)

v. Name or initial (that has elsewhere been identified) of person administering the medication; (3-17-22)

vi. Medications omitted; (3-17-22)

vii. Medication errors (that are reported to the charge nurse and attending physician.) (3-17-22)

05. Tuberculosis Control. ~~That in order to~~ To assure the control of tuberculosis in the facility, there is a planned, organized program of prevention through written and implemented procedures that are consistent with current accepted practices and includes: (3-17-22)()

a. The results of a T.B. skin test is established for each resident upon admission. If the status is not known upon admission, a T.B. skin test is done as soon as possible, but no longer than thirty (30) days after admission. (3-17-22)

- b.** If the T.B. skin test is negative, the test does not have to be repeated. (3-17-22)
- c.** If the T.B. skin test is positive, if determined upon admission or following the test conducted after admission, the resident receives a chest x-ray. A chest x-ray conducted thirty (30) days prior to admission is acceptable. (3-17-22)
- d.** When a chest x-ray is indicated and the resident's condition presents a transportation problem to the x-ray machine, a Sputum culture for m.tuberculosis is acceptable instead of a chest x-ray until the resident's next visit for any purpose to a place where x-ray is available. (3-17-22)
- e.** Annual T.B. skin testing and/or chest x-rays are not required. (3-17-22)
- f.** If a case of T.B. is found in the facility, all residents and employees are retested. (3-17-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.09 – MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 56-202(b), 56-264, 56-255, and 56-1610, 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 Department is proposing language that addresses stakeholder concerns brought up during the 2022 Legislature. This rulemaking replaces Subsection 16.03.09.772.01.c. with updated and corrected language regarding the requirements for fitting prosthetic and orthotic devices.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 116 through 118](#).

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Charles Beal at 208-364-1887.

DATED this 3rd day of October, 2022.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202(b), 56-264, 56-255, and 56-1610, 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 July 20, 2022.

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

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

The Department is proposing language that addresses stakeholder concerns brought up during the 2022 Legislature. This rulemaking replaces 16.03.09.772.01.c. with updated and corrected language regarding the requirements for fitting prosthetic and orthotic devices.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2)(b), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being made to comply with the actions of the Department's legislative committees and the agreement on content made with stakeholders.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Charles Beal, 208-364-1887.

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 July 27, 2022.

DATED this 3rd day of June, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-2201

772. PROSTHETIC AND ORTHOTIC SERVICES: COVERAGE AND LIMITATIONS.

01. Program Requirements. The following program requirements will be applicable for all prosthetic and orthotic devices or services purchased by the Department: (3-17-22)

a. A temporary lower limb prosthesis will be purchased when documented by the attending physician or non-physician practitioner that it is in the best interest of the participant's rehabilitation to have a temporary lower limb prosthesis prior to a permanent limb prosthesis. A new permanent limb prosthesis will only be requested after the residual limb size is considered stable; (3-17-22)

b. A request for a replacement prosthesis or orthotic device must be justified to be the least costly alternative as opposed to repairing or modifying the current prosthesis or orthotic device; (3-17-22)

c. All prosthetic and orthotic devices that require fitting must be provided by a Podiatrist, or an individual who is certified or registered by the American Board for Certification in Orthotics, Prosthetics & Pedorthics (ABC) or the Board of Certification/Accreditation (BOC); ()

d. All equipment that is purchased must be new at the time of purchase. Modification to existing prosthetic or orthotic equipment, or both, will be covered by the Department; (3-17-22)

e. Prosthetic limbs purchased by the Department must be guaranteed to fit properly for three (3) months from the date of service; therefore, any modifications, adjustments, or replacements within the three (3) months are the responsibility of the provider that supplied the item at no additional cost to the Department or the participant; and (3-17-22)

f. Not more than ninety (90) days may elapse between the time of the order and the preauthorization request is presented to the Department for consideration. (3-17-22)

02. Program Limitations. The following limitations apply to all prosthetic and orthotic services and equipment: (3-17-22)

a. No replacement will be allowed for prosthetic or orthotic devices within sixty (60) months of the date of purchase except in cases where there is clear documentation that there has been major physical change to the residual limb, and ordered by the attending physician or non-physician practitioner; (3-17-22)

b. Refitting, repairs, or additional parts must be limited to once per calendar year for all prosthetics or orthotics, or both, unless it has been documented that a major medical change has occurred to the limb, and ordered by the attending physician; (3-17-22)

c. All refitting, repairs or alterations require preauthorization based on medical justification by the participant's attending physician; (3-17-22)

d. Prosthetic and orthotic devices provided for cosmetic or convenience purposes are not covered by the Department. (3-17-22)

e. Electronically powered or enhanced prosthetic devices are not covered; (3-17-22)

f. The Department will only authorize corrective shoes or modification to an existing shoe owned by the participant when they are attached to an orthosis or prosthesis or when specially constructed to provide for a totally or partially missing foot; (3-17-22)

g. Shoes and accessories such as mismatch shoes, comfort shoes following surgery, shoes to support an overweight individual, or shoes used as bandage following foot surgery, arch supports, foot pads, metatarsal head appliances or foot supports are not covered; and (3-17-22)

h. Corsets are not a benefit nor are canvas braces with plastic or metal bones. However, special braces enabling a participant to ambulate will be covered when the attending physician documents that the only other method of treatment for this condition would be application of a cast. (3-17-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.17 – MEDICARE/MEDICAID COORDINATED PLAN BENEFITS

DOCKET NO. 16-0317-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 56-202(b), 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.

Under [Executive Order 2020-01, Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 315 through 318](#).

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jennifer Pinkerton at (208) 287-1171.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

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

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

Virtual Public Hearing via WebEx
Thursday, October 13, 2022 1:00 p.m. to 3:00 p.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m83d7ae567e6b4e7d4d36f26bef697c53
Join by meeting number Meeting number (access code): 2763 846 7533 Meeting password: rgHtUd9JW54 (74488395 from phones and video systems)
Tap to join from a mobile device (attendees only) +1-415-527-5035,,27638467533#74488395# United States Toll +1-303-498-7536,,27638467533#74488395# United States Toll (Denver) Some mobile devices may ask attendees to enter a numeric password.
Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: This chapter of administrative rule contains no fees.

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 2, 2022, Idaho Administrative Bulletin, (Vol. 22-3, pp. 16-17).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no incorporations by reference contained in this chapter of administrative rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jennifer Pinkerton at (208) 287-1171.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 29th day of August, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 16-0317-2201

16.03.17 – MEDICARE/MEDICAID COORDINATED PLAN BENEFITS

000. LEGAL AUTHORITY.

The Department is authorized to promulgate these rules under Sections 56-202(b), 56-251(2)(c), and 56-255(4), Idaho Code. ()

001. SCOPE.

These rules cover the Medicaid benefit plan option that coordinates and integrates health plan benefits for individuals eligible for and enrolled in both Medicare and Medicaid, referred to as the Medicare/Medicaid Coordinated Plan (MMCP). ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Department. The Idaho Department of Health and Welfare or designee. ()

02. Dual-Eligible. Individuals meeting eligibility requirements under Section 100 of these rules. ()

03. Fully Integrated Dual-Eligible Special Needs Plan (FIDE-SNP). A health plan fully integrating care for dual-eligible participants under a single MAO. ()

04. Idaho Medicaid Plus (IMPlus). A health plan option for certain dual-eligible participants where Medicaid covered services are provided under a managed care organization, under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 076 through 079. ()

05. Evidence of Coverage. The Medicare Advantage Plan contract between the MAO and the participant that explains the covered services, including services under Medicare Parts A, B, and D. ()

06. Medicare Advantage Organizations (MAOs). Insurance companies approved by the Centers for Medicare/Medicaid Services (CMS) to offer Medicare Advantage Plans. ()

07. Medicare Advantage Plan. A private health plan approved by and contracted with CMS to provide Medicare Parts A, B, and D benefits as described in its “Evidence of Coverage.” ()

08. Medicare/Medicaid Coordinated Plan (MMCP). FIDE-SNP for certain dual-eligible participants integrating Medicare and Medicaid covered services under one (1) managed care organization. ()

011. -- 099. (RESERVED)

**GENERAL PARTICIPANT PROVISIONS
(Sections 100-199)**

100. MMCP: PARTICIPANT ELIGIBILITY.

To be eligible to select the MMCP, the participant must meet the following criteria. ()

01. Medicare Eligibility. Be eligible for and enrolled in both Medicare Parts A and B. ()

02. Medicaid Eligibility. Be eligible for medical assistance under IDAPA 16.03.05, “Eligibility for Aid to the Aged, Blind, and Disabled (AABD).” Eligibility must not be based solely on IDAPA 16.03.05, “Eligibility for Aid to the Aged, Blind, and Disabled (AABD),” Section 802. ()

03. Age. Be age twenty-one (21) or older. ()

101. MMCP: PARTICIPANT ENROLLMENT.

To receive services under the MMCP, participants must contact a participating managed care organization and request to enroll in the MMCP. Participation in the MMCP begins the month after the participant signs the application for the Medicare Advantage Plan and MMCP. ()

102. MMCP: PARTICIPANT RESPONSIBILITIES.

Participants who select the MMCP are required to do the following: ()

01. Compliance with MAO Requirements. Comply with all requirements under the MAO’s “Evidence of Coverage.” ()

02. Provider Notification. Present their: ()

a. MAO-issued card when seeking Medicare-covered services. ()

b. Medicaid card when seeking any Medicaid-covered services under Subsection 300.01 of these rules. ()

03. MMCP Termination. Participants can terminate their MMCP at any time. Coverage continues until the end of the month as determined by Medicare disenrollment requirements. Once disenrolled, participants are automatically reenrolled in fee-for-service Medicaid or the IMPlus plan. ()

103. -- 199. (RESERVED)

**MAO CONTRACT REQUIREMENT
(Sections 200-299)**

200. CONTRACT REQUIREMENT.

Any MAO seeking to offer MMCP services must operate a FIDE-SNP as approved by CMS and contracted with the Department. ()

201. MAO REIMBURSEMENT.

Each MAO is paid a per member per month rate as defined in the MAO contract. ()

202. -- 299. (RESERVED)

COVERED SERVICES
(Sections 300-301)

300. MMCP: COVERAGE AND LIMITATIONS.

An MMCP is subject to applicable federal managed care requirements. ()

01. MMCP-Covered Services. Include: ()

a. MAO-Covered Services. Under the “Evidence of Coverage,” the MAO may limit or expand the scope of services as defined in the “Evidence of Coverage.” MAO-covered services, including Medicare Parts A, B, and D benefits, are detailed in the MMCP contract. ()

b. Medicaid-Only Services. Under IDAPA 16.03.09, “Medicaid Basic Plan Benefits,” or IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” provided by Medicaid providers that are not MAOs. Medicaid may cover additional services that are not included in the MAO’s “Evidence of Coverage.” ()

c. Supplemental services unavailable on Medicare or Medicaid. ()

02. Services Excluded from the MMCP. Services not included in the MAO’s “Evidence of Coverage” or listed under Subsection 300.01 of this rule are not covered under the MMCP. ()

03. Premiums and Cost-Sharing. Participants will not pay any premiums or cost-sharing when covered under the MMCP, except as described in an approved MMCP contract. ()

301. MMCP BENEFITS: PROVIDER REIMBURSEMENT.

01. Medicaid-Only Service Providers. Providers who only offer Medicaid services must be approved for the MMCP before receiving reimbursement and are subject to the General Provider Provisions under IDAPA 16.03.09, “Medicaid Basic Plan Benefits.” Approved providers are reimbursed under the methodology in IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” related to the Medicaid-only service. ()

02. Medicare Service Providers. Medicare service providers are reimbursed under the methodologies established by the MAO and approved by CMS. MAOs are responsible for participant Medicare cost-sharing as described in the approved MMCP contract. ()

302. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.24 – THE MEDICALLY INDIGENT PROGRAM

DOCKET NO. 16-0324-2201 (CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 56-202 and 56-203, 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 of rule is no longer in effect due to the passage of H0735 by the 2022 legislature and is now being repealed in its entirety.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, page 119](#).

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

This rulemaking has no fiscal impact to the state general fund, or any other funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kristin Matthews at 208-334-5553.

DATED this 3rd day of October, 2022.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202 and 56-203, 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 July 20, 2022.

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

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

This chapter of rule is no longer in effect due to the passage of H0735 by the 2022 legislature and is now being repealed in its entirety.

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

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

This rulemaking has no fiscal impact to the state general fund, or any other funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because it is not feasible as this rulemaking is being done solely to comply with H0735 (2022).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kristin Mathews 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 July 27, 2022.

DATED this 3rd day of June, 2022.

IDAPA 16.03.24 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.03.25 – IDAHO MEDICAID PROMOTING INTEROPERABILITY (PI) PROGRAM
DOCKET NO. 16-0325-2201 (CHAPTER REPEAL)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 56-202, 56-203, and 56-1054, 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.

These rules have existed to: (a) establish the Idaho Medicaid Promoting Interoperability (PI) Program covered under 42 CFR Part 495; (b) provide the Medicaid PI Program criteria for participation of qualified eligible professionals and hospitals that adopt, implement, or upgrade to become meaningful users of certified electronic health record (EHR) systems in accordance with the American Recovery and Reinvestment Act of 2009 (ARRA), Section 4201; and (c) provide for the audit of providers receiving incentive payments. The Department uses this chapter to administer the federal PI Program that pays incentive payments to eligible providers and eligible hospitals that adopt certified EHR technology in accordance with the federal requirements.

The relevant federal funding for provider payments under this program closes at the end of FFY 2022, and federal funding for related audits and appeals closes at the end of FFY 2023. The state anticipates these audits and appeals will be completed by the end of SFY2022. After that, the entire rule chapter will not be needed. This chapter of rule is being repealed in its entirety.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, page 120](#).

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

This rulemaking is not anticipated to have any fiscal impact on the State Fund, General Fund, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Aaron Howard at 208-287-1141.

DATED this 3rd day of October, 2022.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, 56-203, and 56-1054, 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 July 20, 2022.

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

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

These rules have existed to: (a) establish the Idaho Medicaid Promoting Interoperability (PI) Program covered under 42 CFR Part 495; (b) provide the Medicaid PI Program criteria for participation of qualified eligible professionals and hospitals that adopt, implement, or upgrade to become meaningful users of certified electronic health record (EHR) systems in accordance with the American Recovery and Reinvestment Act of 2009 (ARRA), Section 4201; and (c) provide for the audit of providers receiving incentive payments. The Department uses this chapter to administer the federal PI Program that pays incentive payments to eligible providers and eligible hospitals that adopt certified EHR technology in accordance with the federal requirements.

The relevant federal funding for provider payments under this program closes at the end of FFY 2022, and federal funding for related audits and appeals closes at the end of FFY 2023. The state anticipates these audits and appeals will be completed by the end of SFY2022. After that, the entire rule chapter will not be needed.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: This rulemaking is not anticipated to have any fiscal impact on the State Fund, General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the relevant federal funding will no longer be available. The state anticipates these audits and appeals will be completed by the end of SFY2022. After that, the entire rule chapter will not be needed.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Aaron Howard, 208-287-1141.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this 3rd day of June, 2022.

IDAPA 16.03.25 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.04.14 – LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)
DOCKET NO. 16-0414-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 56-202, 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.

Under [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and to reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter in collaboration with the public to streamline and simplify this rule language.

The changes being made at this Pending stage are to streamline the rule text and do not contain any substantial content changes.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 3, 2022 Idaho Administrative Bulletin, [Vol. 22-8, pages 20 through 28](#).

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Lisa Johnson at (208) 334-5739.

DATED this 3rd day of October, 2022.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

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

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

Virtual Public Hearing
Thursday, August 11, 2022 11:00 a.m. - 1:00 p.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=mc0cc1f9f9ab4ce65f56d474de7b287bf
WebEx Call-in: Dial in: 1-415-527-5035 United States
Meeting number (access code): 2761 050 6261
Meeting password: wAKNqJPd837 (92567573 from phones and video systems)

Virtual Public Hearing
Tuesday, August 23, 2022 8:30 a.m. - 10:00 a.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m56860ec779199284ec7fb5e0f194665d
WebEx Call-in: Dial in: 1-415-527-5035 United States
Meeting number (access code): 2760 764 9348
Meeting password: juScf6YMg34 (58723696 from phones and video systems)

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

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

In accordance with [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

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

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2)(b), Idaho Code, negotiated rulemaking was not conducted as it was deemed not feasible as the content of this chapter is established by a federal program.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lisa Johnson at (208) 334-5739.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2022.

DATED this 30th day of June, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 16-0414-2201

Substantive changes have been made in the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

16.04.14 – LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

000. LEGAL AUTHORITY.

The Department has rulemaking authority under Section 56-202, Idaho Code, and is authorized by the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C Sections 8621 to 8629. ()

001. SCOPE AND LIMITATIONS.

01. Scope. *This* program provides assistance to eligible low-income households that pay the highest proportion of their income for home energy needs. ()

02. Program Limitation. This federally funded program does not entitle any household to a certain amount or form of assistance. An eligible participant household will receive one (1) benefit payment from the standard program funding each program year. ()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. **Crisis Assistance.** Energy assistance provided to an eligible participant household to reduce or eliminate an energy-related, health-threatening situation to the household. ()

02. **Department.** The Department of Health and Welfare or its designee. ()

03. **Federal Poverty Guidelines (FPG).** The federal poverty guidelines issued annually by the U. S. Department of Health and Human Services (HHS), <http://aspe.hhs.gov/poverty/>. ()

04. **Fraud.** A deliberate attempt to conceal or misrepresent pertinent information *that* could affect eligibility or grant amounts. ()

05. **Head of Participant Household.** The person designated by the household members to receive energy assistance benefit on behalf of the household and in whose favor the energy assistance warrant is written. ()

06. **Income.** The gross amount of moneys received by the participant household from all sources. ()

07. **Participant.** An individual who has applied for the Low-Income Home Energy Assistance Program from the state of Idaho. ()

08. **Participant Household.** A participant household is one (1) of the following: ()

a. An individual who lives alone; or ()

b. A group of individuals living together as one (1) economic unit where residential energy is purchased in common or they make undesignated payments for energy in the form of rent. ()

09. **Primary Fuel.** *Fuel type* declared by the participant household to be the major source of their home heating. ()

10. **Undocumented Residents.** Individuals entering the United States illegally who have not obtained legal resident status. ()

11. **Vendor.** A utility company or provider of fuel utilized for home heating. ()

011. -- 099. (RESERVED)

100. PARTICIPANT CASE RECORD.

The participant case record is the documentary basis justifying the expenditure of LIHEAP funds. All material pertinent to a participant household will be retained for a permanent record. Eligibility determinations are supported by information in the permanent record showing that each eligibility requirement is met, or that one (1) or more eligibility requirements are not met. ()

101. ELIGIBLE ACTIVITIES.

Funds made available through the LIHEAP grant will be used as follows: ()

01. **Home Utility and Bulk Fuel Costs.** These costs include those incurred by the eligible participant household for electricity, natural gas, and bulk fuel for home energy needs, but does not include costs incurred for telephone, water, trash, or sewer. ()

02. **Governor Declared Emergency or Disaster.** A portion of the LIHEAP grant funds may be used

for home heating supply shortages experienced by the participant household or a weather-related emergency which threatens the health or lives of an area's inhabitants such that the Governor declares a state of emergency. ()

03. Catastrophic Illness Costs. Households with income exceeding eligibility guidelines may be eligible due to catastrophic illness. The household's unreimbursed medical expenses from the previous twelve (12) months are subtracted from the household's gross income for the same period. If the household then meets income guidelines, the Department makes a final eligibility determination. ()

102. PARTICIPANT RIGHTS.

The Department must inform participants of the following rights during the application and eligibility determination process: ()

01. Right to Apply. Any participant household will be given the opportunity, without delay, to apply for LIHEAP benefits. ()

02. Right to a Hearing. Rules governing hearing rights are contained in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ()

03. Civil Rights. The rights of participant households must be respected under the U.S. and Idaho Constitutions, the Social Security Act, Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and all other relevant provisions of federal and state law, including the avoidance of practices *that* violate a person's privacy or subjection to harassment. ()

103. PARTICIPANT RESPONSIBILITIES.

Applicants of LIHEAP benefits will, to the extent permitted by their physical and mental condition, provide all necessary and reasonable verification to establish eligibility, and otherwise cooperate in the eligibility determination process. ()

104. RELATIONSHIP TO OTHER PROGRAMS.

LIHEAP benefits paid to eligible participant households will not be counted as income or resources for any purpose under any federal or state law, including any law relating to taxation, public assistance, or welfare programs. ()

105. -- 149. (RESERVED)

150. ELIGIBILITY REQUIREMENTS AND COLLATERAL CONTACTS.

All participant households assisted through LIHEAP must provide proof they meet *the* eligibility requirements. ()

01. Failing to Meet Eligibility. Participant households failing to meet the eligibility requirements will be denied LIHEAP assistance. ()

02. Participant's Signature. A participant's signature on the application is their consent for the Department to contact collateral sources for verification of the eligibility requirement(s). ()

151. INCOME ELIGIBILITY REQUIREMENTS.

01. Households Receiving SSI or Food Stamps. Households in which one (1) or more individuals are receiving one (1) of the following are eligible for LIHEAP: ()

a. Supplemental Security Income (SSI) under Title XVI of the Social Security Act; or ()

b. Food Stamps under the Food Stamp Act of 1977, under 7 USC 2011 through 2027. ()

02. Income Not Counted. Income listed in Subsections 151.02.a. through 151.02.t. is not counted in determining LIHEAP eligibility or benefit level. ()

a. Benefit payments from Medicare Insurance. ()

- b.** Private loans made to the participant or the household. ()
- c.** Assets withdrawn from a personal bank account. ()
- d.** Sale of real property, if the funds are reinvested within three (3) calendar months. ()
- e.** Income tax refunds. ()
- f.** Infrequent, irregular, or unpredictable income from gifts or lottery winnings of less than thirty dollars (\$30) during the three (3) month period before application for LIHEAP. ()
- g.** Wages or allowances for attendant care when the attendant resides in the household of the disabled member. ()
- h.** Interest income of thirty dollars (\$30) or less received during the three (3) month period before application for LIHEAP. ()
- i.** Legal fees or settlements from Workman’s Compensation paid in a lump sum. ()
- j.** Monies received for educational purposes from NSDL, college work-study programs, State Student Incentive grants, SEOG, Pell, Guaranteed Student Loans, and supplemental grants funded under Title IV, A-2. ()
- k.** Monies from VA-GI Bill for Education. ()
- l.** Department of Health and Welfare Adoption subsidies. ()
- m.** Compensation provided volunteers in the Older American Act or Foster Grandparent Program, including Green Thumb and Vista volunteers, Title V Senior Employment Program. ()
- n.** Third-party payments made by a non-household member on behalf of the household. Third-party payments include child care, energy assistance funds, shelter, food, and clothing assistance. ()
- o.** Value of food stamps or donated food to household. ()
- p.** Utility allowance. ()
- q.** TAFI lump sum payments. ()
- r.** Tribal crop or land payments. ()
- s.** AmeriCorps stipend. ()
- t.** Child support income. ()

152. NON-FINANCIAL ELIGIBILITY REQUIREMENTS.

01. Residence. When the application is completed, the household must reside in the state of Idaho. LIHEAP benefits are not transferable to an out-of-state residence. ()

02. Living Situations. The household resides in housing where they are responsible for home energy costs and incur the costs either directly or as an undesignated portion of their rent. ()

03. Native Americans. Native American households whose tribe has entered into a separate agreement with the federal funding agency and the Department to receive LIHEAP grant funds, are not entitled to benefits under this program unless: ()

- a. Tribal funds are not available. ()
- b. Funds are depleted and an emergency exists. ()

04. Resident Status. As part of the application process, participants must sign a declaration, under penalty of perjury, attesting to the residency or citizenship status of all household members. At least one (1) household member must be a citizen or legal resident of the United States. ()

153. -- 200. (RESERVED)

201. APPLICATION PROCESS.

A participant will be provided a prompt opportunity to complete an application for assistance. ()

01. Date of Application. The participant application process begins the date the completed and signed application is received. ()

02. Participant Representation. A participant household may be assisted by an adult person or persons of their choice and, when accompanied by such persons, may be represented by them. ()

03. Signature. The application must be signed by the participant designated as the head of household, or their designee. Electronic signatures are acceptable. ()

a. Applications signed by a designee must have a letter of authorization or power of attorney from the participant included in the file. ()

b. Department *employees* are not authorized to sign the application. ()

04. Signature by Mark. A signature by mark requires two (2) witnesses. The signatures and addresses of the witnesses must appear on the application, followed by the word “witness.” ()

05. Application Assistance. When completing the application forms or obtaining required documentation, the Department will assist limited or non-English speaking applicants by providing interpreter services. ()

202. APPLICATION TIME LIMITS AND DISPOSAL ACTIONS.

Unless circumstances beyond the Department’s *control* prohibit it, each application is to be acted upon within thirty (30) days from the date the application is completed and signed by the participant. An application for LIHEAP assistance will be disposed of by one (1) of the following three (3) methods: ()

01. Approval. A determination the participant household is eligible for LIHEAP benefits. ()

02. Denial. A determination the participant household is ineligible for LIHEAP benefits or that eligibility could not be determined due to lack of necessary information or verification. ()

03. Withdrawal. The participant household voluntarily requests that no further consideration be given to their application or the participant becomes deceased. ()

203. NOTIFICATION OF DECISION.

Each participant household will be notified, in writing, of the decision made with regard to their LIHEAP application for assistance. ()

01. Approvals. *When* the application is completed, the participant household will receive a copy of their preliminary approval notification. The Department issuance of the benefit payment or denial notice will be the participant household’s formal eligibility notification. ()

02. Denials or Withdrawals. The LIHEAP Notice of Denial will be provided to participant households denied assistance and include the reason for the denial and an explanation of the participant household’s

right to appeal the eligibility decision. ()

204. -- 299. (RESERVED)

300. VENDOR AGREEMENTS.

All participating energy suppliers will enter into a vendor agreement with the Department to provide home energy assistance to eligible participant households. ()

301. OVERPAYMENTS.

Payments issued on behalf of a participant household that is not eligible must be repaid to the Department. ()

302. RECOUPMENT OF OVERPAYMENT.

01. Recoupment. The Department may recoup or recover the amount issued on behalf of a LIHEAP participant. Interest will accrue on overpayments at the statutory rate set under Section 28-22-104, Idaho Code, from the date of the final determination of the amount owed for services. Recoupment of an overpayment based on Department error may be collected from a vendor or participant when the overpayment is one hundred dollars (\$100), or more. Interest will not accrue on overpayments made due to Department error. An overpayment due to vendor or participant error, intentional program violations (IPV), or fraud must be recovered in full. ()

02. Repayment. A vendor or participant must repay any overpayment, but may negotiate a repayment schedule with the Department. Failure to comply with the negotiated repayment agreement will result in revocation of that agreement and may result in the revocation of the vendor agreement. ()

303. -- 309. (RESERVED)

310. INTENTIONAL PROGRAM VIOLATIONS (IPV).

An IPV is an intentionally false or misleading action or statement. An IPV is established when a vendor or participant admits the IPV in writing and waives the right to an administrative hearing, or when determined by an administrative hearing, a court decision, or through deferred adjudication. Deferred adjudication exists when the court defers a determination of guilt because the accused vendor or participant meets the terms of a court order or an agreement with the prosecutor. The following are IPV's: ()

01. False Statement. Made to the Department by an individual or vendor orally or in writing, to participate in LIHEAP. ()

02. Misleading Statement. Made to the Department by an individual or vendor orally or in writing, to participate in LIHEAP. ()

03. Misrepresentation of Fact. Made to the Department by an individual or vendor orally or in writing, to participate in LIHEAP. ()

04. Concealed Fact. Concealed or withheld from the Department by an individual or vendor to participate in LIHEAP. ()

05. Non-Compliance with Rules and Regulations. ()

06. Violation of Vendor Agreement. ()

07. Failure to Repay. ()

311. PENALTIES FOR AN IPV.

When the Department determines an IPV was committed, the participant or vendor who committed the IPV loses eligibility to participate in LIHEAP. If an individual in a LIHEAP household has committed an IPV, the entire household is ineligible for LIHEAP. If a vendor has committed an IPV, the vendor is ineligible to receive payments. The period of ineligibility for each offense, for both a participant or a vendor, is as follows: ()

01. First Offense. Twelve (12) months, for the first IPV or fraud offense, or the length of time specified by the court. ()

02. Second Offense. Twenty-four (24) months for the second IPV or fraud offense, or the length of time specified by the court. ()

03. Third Offense. Permanent ineligibility for the third or subsequent IPV or fraud offense, or the length of time specified by the court. ()

312. -- 319. (RESERVED)

320. DENIAL OF PAYMENT.

The Department may deny payment to the vendor or participant for the following reasons: ()

01. Services Not Provided. Any or all claims for vendor services the Department determines were not provided. ()

02. Contrary to Rules or Provider Agreement. Vendor services provided contrary to these rules or the vendor agreement. ()

03. Failure to Provide Immediate Access to Records. The vendor does not allow immediate access by the Department to LIHEAP records. ()

04. Willful Misrepresentation or Concealment of Facts. The vendor or participant willfully misrepresents or conceals facts relating to LIHEAP. ()

321. -- 349. (RESERVED)

350. TERMINATION OF VENDOR STATUS.

Under Section 56-209h, Idaho Code, the Department may terminate the vendor agreement of, or otherwise deny vendor status for up to five (5) years from when the Department's action becomes final to any individual or entity providing LIHEAP. The following are bases for the Department to terminate vendor status: ()

01. Knowing Submission of an Incorrect Claim. ()

02. Submission of a Fraudulent Claim. ()

03. False Statements. Knowingly making a false statement or representation of material facts in any document required to be maintained or submitted to the Department. ()

04. Failure to Provide Immediate Access to Required Documentation Upon the Department's Written Request. ()

05. Non-Compliance With Rules and Regulations. ()

06. Violation of Material Term or Condition of the Vendor Agreement. ()

07. Failure to Repay. Failure by a managing employee or one with an ownership or control interest in any entity to repay overpayments or claims previously found to have been obtained contrary to statute, rule, regulation, or vendor agreement. ()

08. Fraudulent or Abusive Conduct in the Delivery of LIHEAP-Funded Services. Being found, or being a managing employee in any entity who is found, to have engaged in fraudulent or abusive conduct. ()

351. (RESERVED)

352. VENDOR OR PARTICIPANT NOTIFICATION.

When the Department determines any actions *under* Sections 310 through 350 of these rules are appropriate, it will send written notice of the decision to the vendor or participant. The notice will state the basis for the action, the length of the action, the effect of the action on the participant or the vendor's ability to provide services under state and federal programs, and appeal rights. ()

353. -- 994. (RESERVED)

995. PROVISIONS CONTINGENT UPON FEDERAL FUNDING.

These rules are contingent upon availability and receipt of funds appropriated through federal legislation. When federal funds are not available, these provisions or any part therein are considered dormant; there may be no advance notice of termination or reduction of benefits. If additional funds are available, a supplemental payment may be made, in an equitable manner, to each eligible household at the discretion of the Director. ()

996. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.04.18 – CHILDREN’S AGENCIES AND RESIDENTIAL LICENSING
DOCKET NO. 16-0418-2201 (NEW CHAPTER)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 39-1207, 39-1208, 39-1209, 39-1210, 39-1213, 56-1003, 56-1004A, and 56-1005(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.

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Therapeutic and Residential Program is striving to prevent the accumulation of costly, ineffective, and outdated regulations and to reduce regulatory burden to achieve a more efficient operation of government.

These changes are a result of a comprehensive review of Children’s Agencies and Residential Licensing Program rules and collaboration with stakeholders to streamline and simplify these rules. The rule content currently resides in 16.06.02, “Child Care Licensing,” and is being separated from day care and foster home content and placed into a new chapter to reduce confusion for stakeholders. The new chapter is titled IDAPA 16.04.18, “Children’s Agencies and Residential Licensing.” The changes clarify licensing requirements for children's agencies, children's residential care facilities, children's camps, children's therapeutic outdoor programs, and substance abuse treatment facilities licensed to operate in Idaho. Redundant and outdated language and requirements have been updated and removed as necessary.

Changes to text being made at this pending stage are to clarify the proposed language, eliminate obsolete language, and streamline rule text.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 92 through 150](#).

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Frede’ Teske at 208-334-0649.

DATED this 12th day of December, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone
(208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-1207, 39-1209, 39-1210, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Therapeutic and Residential Program is striving to prevent the accumulation of costly, ineffective, and outdated regulations and to reduce regulatory burden to achieve a more efficient operation of government.

The rule changes are intended to perform a comprehensive review of Children's Agencies and Residential Licensing Program rules by collaborating with the public to streamline and simplify these rules. The rule content currently resides in 16.06.02, "Child Care Licensing," and is being separated from day care content and placed into a new chapter to reduce confusion for stakeholders. The new chapter is titled IDAPA 16.04.18, "Children's Agencies and Residential Licensing." The changes are intended to clarify licensing requirements for children's agencies, children's residential care facilities, children's camps, children's therapeutic outdoor programs, and substance abuse treatment facilities licensed to operate in Idaho. Redundant and outdated language and requirements have been updated and removed as necessary.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 16-0602-2201. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the March 2, 2022, [Vol. 22-3, pages 18-21](#), and April 6, 2022, [Vol. 22-4, pages 32-34](#) Idaho Administrative Bulletins.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Frede' Teske, 208-334-0649.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0418-2201

16.04.18 – CHILDREN'S AGENCIES AND RESIDENTIAL LICENSING

000. LEGAL AUTHORITY.

Sections 39-1207, *39-1208*, 39-1209, 39-1210, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code, authorizes the Department and the Idaho Board of Health and Welfare to adopt and enforce rules for licensing children's agencies, children's residential care facilities, and children's therapeutic outdoor programs. ()

001. SCOPE AND POLICY.

01. Scope. These rules establish requirements for licensing, maintaining, and operating the following facilities or programs in Idaho: ()

- a. Children's agencies; ()
- b. Children's residential care facilities; and ()
- c. Children's therapeutic outdoor programs. ()

02. Policy. The Department will assure that Idaho children receive adequate substitute parental care in case of absent parents, or the temporary or permanent inability of parents to provide care and protection, or if parents are seeking alternative twenty-four (24) hour care for their children. ()

002. – 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Background Check. Background checks are required for individuals who are licensed under these rules and must comply with IDAPA 16.05.06, "Criminal History and Background Checks," except for those individuals under Subsection 009.03 of this rule. ()

02. Individuals Subject to Background Check Requirements. The following individuals must receive a background clearance according to IDAPA 16.05.06, "Criminal History and Background Checks:" ()

- a. Contract employees or volunteers that have unsupervised time with children; ()
- b. Any adult living on the premises; ()
- c. Adoptive Parents; ()

- d. Agency Licensed Foster Parents. ()
- e. Children's Agency Facility Staff; ()
- f. Children's Residential Care Facility Staff; and ()
- g. Children's Therapeutic Outdoor Program Staff. ()
- 03. Exceptions to Background Checks.** Background checks are optional for: ()
 - a. Youth in foster care who reach eighteen (18) years old and continue to reside in the same licensed foster home. ()
 - b. Youth in a children's residential care facility who reach eighteen (18) years old who continue to live in the same licensed residential facility. ()
 - c. Any employee, contractor, or volunteer of an organization who does not have access to a child living in a residential care facility, and who has duties or performs tasks that do not involve contact with a child or their personal belongings. ()

010. DEFINITIONS A THROUGH M.

- 01. Chief Administrator.** The duly authorized representative or designee of an organization responsible for day-to-day operations, management, and compliance with these rules and Title 39, Chapter 12, Idaho Code. ()
- 02. Child.** Under Title 39, Chapter 12, Idaho Code, a “child” is an individual less than eighteen (18) years old, synonymous with juvenile or minor. ()
- 03. Child Care.** The care, control, supervision, or maintenance of a child for twenty-four (24) hours a day provided as an alternative to parental care. ()
- 04. Children's Agency.** A business for the placement of children in foster homes or for adoption and who does not provide child care as part of that business. A children's agency includes those providing home studies, post-placement supervision, post-finalization services, and other domestic and international adoptive services under Title 39, Chapter 1202(4), Idaho Code. A children's agency does not include an Idaho certified adoption specialist. ()
- 05. Children's Camp.** *A program of child care at a location away from the child's home that is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy, or rehabilitation for the child.* ()
- 06. Children's Residential Care Facility.** *A children's institution as defined in Section 39-1202(6), Idaho Code, but excluding foster homes, children's therapeutic outdoor programs, accredited residential schools, and children's camps if the camps provide child care for less than nine (9) consecutive weeks in any one (1) year period.* ()
- 07. Children's Therapeutic Outdoor Program.** A program that provides child care designed to provide behavioral, substance abuse, or mental health services to children in an outdoor setting. Also known as “outdoor program.” ()
- 08. Continued Care.** The ongoing placement of an individual who reaches the age of eighteen (18) years but is less than twenty-one (21) years old. ()
- 09. Department.** The Idaho Department of Health and Welfare, the Department Director, or designee. ()

10. Direct Care Staff. An employee who has direct personal interaction with children in the supervision of child care. ()

11. Disrupted Placement. When a child is discharged by the organization based on the child's behaviors, or when a child is removed from an adoptive placement before the adoption is finalized. ()

12. Governmental Unit. The State of Idaho, any county, municipality, or other political subdivision, or any department, division, board, or other agency thereof. ()

13. Intercountry Adoption. The placement of a child from one (1) country to another for the purpose of adoption. ()

14. Mechanical Restraint. Devices used to restrict a person's free movement. ()

15. Medical Professional. Person who received a degree in nursing or medicine and is licensed as a nurse, licensed nurse practitioner, physician's assistant, or medical doctor. ()

011. DEFINITIONS N THROUGH Z.

01. Nonaccredited Residential School. A residential school for any number of children that is not certified or accredited pursuant to Section 39-1207, Idaho Code, or has lost accreditation and is subject to the jurisdiction of the Department as a children's residential care facility pursuant to Section 39-1210, Idaho Code, unless and until accreditation is certified by the Idaho Department of Education. ()

02. Noncompliance. Violation of, or inability to meet, the requirements of these rules or the terms of licensure. ()

03. Operator. An individual who operates or maintains within Idaho a children's residential care facility, children's agency, or outdoor program. ()

04. Organization. A children's agency, a children's residential care facility, or an outdoor program. ()

05. Person. Any individual, association, partnership, corporation, or any group thereof. ()

06. Physical Restraint Intervention. Any intervention utilized to control the range and motion of an individual, including an escort, to assist a child in moving from one location to another. ()

07. Placement. The activities and arrangements related to finding a suitable home or facility for a child. ()

08. Plan of Correction. The detailed procedures developed between the Department and an organization required to bring the organization into compliance. ()

09. Residential School. A residential facility for children *that* provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students. *All additional provisions of* Section 39-1202(23), Idaho Code, *also apply in defining "Residential School".* ()

10. Seclusion. A room within a facility designed to temporarily isolate an individual to gain emotional or physical control by means of structure and minimal stimulation. ()

11. Staff-Child Ratio. The maximum number of children allowed under the care and supervision of one (1) staff. ()

12. Substance Abuse Treatment Facility. A licensed children's residential care facility participating in the public Substance use Disorder (SUD) system specializing in providing programs of treatment for children

whose primary problem is alcohol or drug abuse, under IDAPA 16.07.17, "Substance Use Disorders Services." Private pay children's residential care facilities must utilize licensed professionals under IDAPA 16.07.17 to provide specialized treatment for children whose primary problem is alcohol or drug abuse. ()

13. Supervision. Monitoring a child based on their individual needs to provide for their safety and protection. ()

14. Time-Out. Separation of a child from an activity as a means of behavior management. ()

15. Training. Instruction related to child care that increases knowledge, skill, and abilities. ()

012. – 099. (RESERVED)

LICENSING AND CERTIFICATION
Sections 100 – 199

100. LICENSING.

These rules set requirements and monitor compliance. ()

01. Operator Responsibilities. The operator must conform to the terms of the license. ()

02. Knowledge of Standards. The operator is responsible for knowing and always complying with the rules regulating the license. The operator is responsible for ensuring that staff are familiar with the rules governing their organization. ()

03. Voluntary Closure. The operator must notify the Department of any voluntary closure prior to the closure date. ()

04. Voluntary Withdrawal of License. The Department will withdraw the license of an organization that has not provided services in the last licensed year. ()

05. Operating Without a License. If children are found in an unlicensed organization, the Department will refer to law enforcement or Child Protective Services if it has been determined that an immediate threat to the children's health and safety exists; ()

06. Operating an Unlicensed Organization. Operating an unlicensed organization is a misdemeanor under Sections 39-1220 and 39-1221, Idaho Code. ()

07. Exceptions and Exemptions. Under Sections 39-1206 and 39-1211, Idaho Code, these rules do not apply to: ()

a. The occasional or irregular care of a neighbor's, relative's or friend's child or children by a person not ordinarily engaged in child care; or ()

b. Children's camps that only provide child care for any one (1) child for less than nine (9) consecutive weeks in any one (1) year period. A children's camp that provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period constitutes a children's residential care facility and is subject to these rules. A children's camp that also constitutes a residential school must be governed as a residential school. ()

101. APPLICATIONS FOR LICENSE.

A license application must be submitted to the Department using the Department-approved process and include applicant's completed background clearance. All organizations must comply with applicable Idaho state, city, and county ordinances. ()

102. DISPOSITION OF APPLICATIONS.

After receipt of a completed application that addresses each requirement for the organization, the Department will

review the materials for compliance with these rules and will act on the application within thirty (30) days after receipt of the completed application. ()

01. Application Approval. A license will be issued to any organization in compliance with these rules. The license is issued under the terms specified in the licensing survey and will be sent to the applicant. ()

02. License. A license will be issued to any organization in compliance with these rules and will specify the terms of licensure, such as: ()

a. Capacity, age range, and gender; ()

b. Specific services under the approved program description; and ()

c. Effective up to twelve (12) months from the date of issuance unless suspended or revoked earlier. ()

03. Variance. A license will be issued to an organization that has been approved for a variance through the Department-approved process, under Section 67-5230, Idaho Code. Variances must be approved annually. ()

04. Provisional License for Idaho-Licensed Organizations. A provisional license may be issued to an organization when a licensing standard is not met but can be expected to be corrected within six (6) months of issuing the provisional license, provided this does not endanger the health, safety, and well-being of any child in care or who may come into care during the period of the provisional license. A provisional license will be issued according to Section 39-1216, Idaho Code. ()

05. Denial of Application. If an application is denied, notification will be sent to the applicant stating the basis for such denial. ()

06. Failure to Complete Application Process. Failure of the applicant to progress in the application process will result in a denial of the application. ()

103. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Issued License. A license applies only to the organization and premises designated. Each license is issued in the name of the organization, or governmental unit identified on the application and only to an address of the organization stated in the application and approved program description for the period and services specified. Any change in terms, such as capacity, ages, or gender served, approved program description services, management, or address renders the license null and void. ()

02. Nontransferable. A license is nontransferable from one (1) individual to another, from one (1) business entity or governmental unit to another, or from one (1) location to another. ()

03. Change in Ownership, Operator, Terms, or Location. When these changes occur, the organization must submit a change application. The new owner or operator must obtain a license before starting operations. ()

104. MANDATORY VISITATIONS.

Under Section 39-1217, Idaho Code, the Department must visit and be given access to the premises of each organization as often as deemed necessary by the Department to assure compliance with these rules at intervals not to exceed twelve (12) months. ()

105. LICENSE RENEWAL.

Under Section 39-1215, Idaho Code, a renewal application must be submitted through a Department-approved process, no less than sixty (60) days before the expiration date of the license. When renewal applications are properly made, the existing license will, unless revoked, remain in force until the Department has completed an annual survey. ()

01. Full Survey. An organization will receive a full survey upon initial licensure and annually thereafter. ()

02. Focused Survey. An organization may receive a focused annual survey if the organization meets the following: ()

a. Has been licensed for three (3) consecutive years; ()

b. Has received five (5) or fewer total deficiencies during the most recent annual survey and any mid-year statement of deficiencies; and ()

c. Has no criminal history, medication, child health record, dental, or repeat deficiencies in the last three (3) annual surveys or mid-year statement of deficiencies. ()

106. COMPLAINT INVESTIGATION.

The Department will investigate complaints which may include further contact with the complainant, scheduled or unannounced visits to the organization, review of records, and collateral contacts including interviews and review of records with any persons who may have knowledge of the complaint. ()

107. SUSPENSION OR REVOCATION FOR INFRACTIONS.

A license may be suspended for a violation of these rules. Suspension may lead to revocation if the operator fails to satisfy the Department that the violation has been corrected to assure compliance. ()

108. NONRENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF LICENSE.

If, upon investigation, it is found that an applicant or operator has failed or refused to comply with the provisions of the Child Care Licensing Reform Act, Sections 39-1201 through 39-1224, Idaho Code, with these rules, or with any provision of the license, the Department may deny, suspend, revoke, or not renew a license. The Department may also deny, suspend, revoke, or deny renewal of a license for any organization when the following is determined: ()

01. Criminal Conviction or Relevant Record. Anyone providing direct care or working onsite under these rules is denied background clearance or refuses to comply with requirements in IDAPA 16.05.06, "Criminal History and Background Checks." ()

02. Other Misconduct. The applicant, operator, or the chief administrator: ()

a. Fails to furnish any data, statistics, records, or information requested by the Department without good cause or provides false information. ()

b. Has been found guilty of, or is under investigation for, fraud, deceit, misrepresentation, or dishonesty with the operation of the organization. ()

c. Has been found guilty of, or is under investigation for, the commission of any felony. ()

d. Has knowingly permitted, aided, or abetted the commission of any illegal act. ()

03. Transfer of Children. May occur under the following circumstances: ()

a. Any condition that endangers the health or safety of any resident or child. ()

b. An organization is not in substantial compliance with, or has repeat violations of, these rules. ()

c. An organization has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. ()

d. An organization has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a license. ()

- e. Refusal to allow Department full access to the organization's grounds, facilities, and records. ()
- f. An organization has violated the terms or conditions of a provisional license. ()

109. ENFORCEMENT REMEDY – BAN ON ADMISSIONS.

The Department may summarily ban admissions, in whole or in part, pending satisfactory correction of all deficiencies. Bans remain in effect until the Department determines that the organization has achieved compliance with all program requirements, or until a substitute remedy is imposed. ()

110. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.

An organization cannot apply and the Department will not accept an application from any person, corporation, or partnership, including any owner with a ten percent (10%) or more interest, who has had a license denied or revoked, until five (5) years has elapsed from the date of denial, revocation, or conclusion of a final appeal, whichever occurred last. ()

111. – 199. (RESERVED)

**CHILDREN'S AGENCIES, CHILDREN'S RESIDENTIAL CARE FACILITIES,
AND OUTDOOR PROGRAMS
Sections 200 – 299**

200. GENERAL STANDARDS FOR ORGANIZATIONS.

These organizations must have policies and procedures addressing the licensing standards in Sections 200 - 299 of these rules. ()

201. ACCESS BY DEPARTMENT-AUTHORIZED AGENTS.

The Department must be provided access to the grounds, facilities, and records for determining compliance with applicable rules and investigation of complaints against the organization. ()

202. NOTIFICATION TO THE DEPARTMENT.

An organization must notify the Department no later than the next business day of the following: ()

- 01. Change in Chief Administrator.** ()
- 02. Employee Investigated for Child Abuse or Neglect.** ()

203. NOTIFICATION.

An organization must notify the Department by close of the next business day using the Department-approved process and immediately notify the parent, guardian, or placing children's agency for the following: ()

- 01. Fire.** A fire that requires the services of a fire company or when children are relocated. ()
- 02. Hospitalized Child.** Any illness, injury, or behavioral health crisis that requires admittance to a hospital. ()
- 03. Law Enforcement Authorities.** When a child is detained, arrested, or charged by law enforcement authorities. ()
- 04. Suicide Attempt.** A child's attempt to commit suicide that requires an external emergency response or emergency room visit. ()
- 05. Missing or Runaway Child.** When a child is missing or has eloped and is not within the child's supervision needs. ()
- 06. Death of a Child.** If sudden death, or if the death occurs because of a crime or accident, the appropriate law enforcement agency must be contacted immediately. ()

204. REGISTRATION.

The organization must be registered with the Idaho Secretary of State. ()

205. ORGANIZATIONAL CHART.

An organization must have an organizational chart identifying the job positions, individuals in each position, and the lines of authority within the organization. ()

206. INSURANCE COVERAGE.

An organization must maintain copies of current motor vehicle, comprehensive general liability, and professional liability insurance. ()

207. QUALITY OF SERVICES.

An organization must carry out its licensed programs in an environment that is safe, accessible, and appropriate for the needs of those served and with regard for the rights and protections of those persons receiving services. ()

01. Assess Compliance. The organization's administration must conduct and document a quality assurance review for compliance with these rules annually. ()

02. Corrective Action for Noncompliance. For each noncompliance, within thirty (30) days of notification by the Department, the organization must have developed and implemented a plan approved by the Department to correct each item within six (6) months. ()

03. Expeditious Correction. The Department may require a more expeditious correction when it determines there is a health and safety risk to children. The corrective action must be completed within twenty-four (24) hours of discovery of the noncompliance by the Department. ()

208. CONFIDENTIALITY AND PRIVACY.

An organization must have and follow processes governing access to, use of, and release of information about a person served that include the organization's publicity, social media, research, and Health Insurance Portability and Accountability Act (HIPAA) practices. ()

209. PROGRAM DESCRIPTION.

An organization must have and follow a program description of the services and fees the organization charges including those provided by the organization or arranged through other sources. This information must be available to the public. The description must include criteria governing eligibility for service, age, specific characteristics, and treatment needs of children served, accommodation of cultural sensitivity, and the geographic area served. ()

210. SUFFICIENT FINANCIAL RESOURCES.

An organization must have sufficient financial resources to implement and deliver its programs. Initially and annually, organizations must develop and implement a financial plan to carry out its programs, to ensure that children receive safe and appropriate care and needed services, and to ensure licensing requirements are met. ()

211. HUMAN RESOURCES NEEDED.

An organization must: ()

01. Human Resources. Determine, organize, and deploy the human resources needed to provide services subject to these rules and to promote optimum outcomes for persons served. ()

02. Staff. Have an adequate number of qualified administrative staff, supervisor(s), case manager(s), direct care staff, and other staff to perform the prescribed functions required by these rules to provide for the needs, safety, protection, and supervision of children served. ()

212. CHIEF ADMINISTRATOR RESPONSIBILITIES.

An organization must designate a person to function as the chief administrator to manage the organization including the overall day-to-day responsibilities. The chief administrator must adopt and implement lines of responsibility that ensure the proper and effective supervision and monitoring of employees and volunteers. There must be a written plan for the delegation of authority in the absence of the chief administrator. ()

213. CHIEF ADMINISTRATOR QUALIFICATIONS.

01. Qualifications. All organizations must employ a full-time chief administrator. At the time of appointment, the chief administrator must have two (2) years experience working with children and three (3) years experience in staff supervision and administration, and one (1) of the following: ()

a. A Bachelor's degree in a relevant discipline; ()

b. The completion of a career development program which includes work related experience, training, or college credits that provide a level of achievement equivalent to the Bachelor's degree. ()

02. Outdoor Program. Additional Chief Administrator qualifications for an outdoor program are found in Section 502 of these rules. ()

214. CASE MANAGER SUPERVISOR.

The organization must employ a case manager supervisor when the organization employs eight (8) or more full-time case managers. A case manager supervisor is not allowed to supervise their own work and must not supervise more than eight (8) full-time case managers. ()

215. CASE MANAGER SUPERVISOR QUALIFICATIONS.

A case manager supervisor must possess one (1) of the following: ()

01. Master's Degree. A Master's degree from an accredited college or university in a behavioral science or related field, and have demonstrated experience of not less than three (3) years working with families or children in a social service setting and two (2) years in staff supervision. ()

02. Bachelor's Degree. A Bachelor's degree from an accredited college or university in a behavioral science or related field, and have demonstrated experience of not less than four (4) years working with families or children in a social service setting and two (2) years in staff supervision. ()

216. CASE MANAGER.

Except for nonaccredited residential schools, an organization must employ one (1) case manager who is not allowed to supervise their own work. ()

217. CASE MANAGER QUALIFICATIONS.

The organization must hire a case manager that possesses one (1) of the following: ()

01. Social Work Licensure. Licensed by the state of Idaho under Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." ()

02. Bachelor's Degree. A Bachelor's degree in a behavioral science, or a related field; and have the following: ()

a. For children's residential care facilities, the case manager must have at least one (1) year of full-time work experience with children in a social service setting. ()

b. For children's agencies, the case manager must have at least one (1) year of full-time work experience in foster care or adoption services. ()

03. Five Years Full-Time Work Experience. Except for a children's agency, at least five (5) years of full-time work experience with children in a social service setting. ()

218. CASE MANAGER RESPONSIBILITIES.

01. Children's Agencies. ()

a. The responsibilities of a case manager employed or contracted by a children's agency to perform work within their scope that may include child assessment, service plan development, child placement, foster or adoptive home assessment, and supportive services for children and families. ()

b. At the discretion of the supervisor, a case manager may be assigned a caseload of: ()

i. Twenty (20) families with an adoption placement, or active child foster care; or ()

ii. Forty (40) adoptive families being studied or awaiting an adoptive placement or foster home certification cases, or a proportionate combination of these families. ()

02. Children's Residential Care Facilities and Outdoor Programs. ()

a. The responsibilities of a case manager employed or contracted by a children's residential care facility or outdoor program to perform work within their scope that may include assessment, writing the service plan, supervision, and support. The case manager must be available during normal business hours to provide onsite support. ()

b. There must be at least one (1) case manager for every twenty (20) children. ()

219. STAFF RECRUITMENT, HIRING, SUPERVISION, TRAINING, EVALUATION, PROMOTION, AND DISCIPLINE.

An organization must have processes governing recruitment, screening, hiring, supervision, training, evaluation, promotion, and discipline of employees and volunteers. An organization must employ persons and use volunteers who have an understanding and respect for children and their needs, the child's family and culture, are able to provide services to unrelated children and the problems they present, and are capable of performing activities related to their job. An organization must have the following: ()

01. Job Descriptions. Every position needs to identify and follow necessary qualifications, including education, experience, training, duties, and lines of authority. A designated employee of the organization must supervise a volunteer and be included in that individual's job description. ()

02. Personnel Records. Every employee and volunteer needs a personnel record that contains the following: ()

a. Employment application or resume; ()

b. Name, date of birth, current address, and phone number; ()

c. Documents verifying education, certification, and license when the person fills a position requiring a minimum level of education, applicable certification, or license; ()

d. Three (3) verified references from persons who are unrelated to the employee or volunteer. For a job applicant who has worked for an organization that provides care or services to children, one (1) of the references must be from a prior child care provider for whom the employee or volunteer worked; ()

e. Verified documentation of a complete background check under IDAPA 16.05.06, "Criminal History and Background Checks"; ()

f. Verification by the employee or volunteer of receipt of the organization's behavior management policy; ()

g. Copy of the current job description, date they began their current job, and verification that the employee has been provided a copy of their current job description; ()

h. The date the person was hired; ()

- i.** For staff and volunteers who transport children, a copy of a valid driver's license. If they use their own vehicle to transport children, the record must include proof that the vehicle is properly insured. ()
- j.** Performance evaluation within a probationary period and annual performance evaluations thereafter; and ()
- k.** Documentation of any disciplinary actions. ()

220. ORIENTATION.

An organization must document that each new employee, contractor, and volunteer participates in an orientation within the first week of employment that includes the following: ()

- 01. Organization.** The purpose of the organization. ()
- 02. Job Function.** The policies and procedures of the organization as they relate to their job function. ()
- 03. Job Responsibilities.** The employee's, contractor's, or volunteer's role and responsibilities. ()
- 04. Reporting Requirement for Child Abuse, Neglect, and Abandonment.** ()

221. TRAINING.

An organization must document that each new and current employee, volunteer, or contractor whose job function significantly changes, and whose primary role requires interaction with children, receive the following trainings before working independently. Volunteers and contractors who provide occasional services, or are always supervised, or both, are exempt from the training requirements: ()

- 01. Specific Instruction in Job Responsibilities.** ()
- 02. Policies and Procedures.** ()
- 03. Child Safety.** ()
- 04. CPR and First Aid.** Employees, volunteers, and contractors who work independently with children need certification in cardiopulmonary resuscitation (CPR) and first aid appropriate to the age of the children served within ninety (90) days after employment and maintain the certification during their employment. ()
- 05. Job Shadowing.** Employees are to receive job shadowing applicable to their daily responsibilities. ()

222. INITIAL AND ANNUAL TRAINING.

An organization must document that each new employee, volunteer, or contractor receive the following trainings prior to working independently and annually thereafter. Volunteers and contractors who provide occasional services or are always supervised, or both, are exempt from the training requirements: ()

- 01. Child Abuse, Neglect, or Abandonment Identification.** ()
- 02. Emergency Procedures.** ()
- 03. Child Development Appropriate to Population Served.** ()
- 04. Cultural Sensitivity and Diversity.** ()
- 05. Behavior Management and Mental Health Issues Appropriate to Population Served.** ()

223. PERMANENT REGISTER.

The organization must maintain a permanent register of all children admitted into care that includes each child's full

name, gender, date of birth, parents or guardian and their addresses, who placed the child, the date of placement, date of discharge, and to whom the child was discharged. ()

224. MAINTENANCE OF RECORDS.

An organization must have and follow processes for the maintenance and security of records, that include: ()

01. Record Storage. Ensuring electronic or hard copies of records are stored in a secure manner.()

02. Record Confidentiality. Ensuring confidentiality and prevention of unauthorized access to records. ()

03. Organization of Record. Requiring records be maintained in a uniform and organized manner. ()

04. Record Storage for Closed Organizations. Before an organization ceases operations, it must provide for the storage of all records mandated to be maintained by rules. ()

225. RECORD RETENTION.

All organization records must be maintained for at least five (5) years after the case is closed or services ended. Except for home study only services, adoption agencies must permanently retain the records for an adopted child and adoptive parent. ()

226. ICPC COMPLIANCE.

Organizations must comply with the Interstate Compact on the Placement of Children (ICPC) on the state ICPC website: <http://icpcstatepages.org>. ()

227. REPORTING OF CHILD ABUSE, NEGLECT, AND ABANDONMENT.

All suspected incidents of child abuse, neglect, or abandonment must be reported immediately to child protection services or law enforcement under Section 16-1605, Idaho Code. The chief administrator must ensure the safety and protection of children when the allegation is against an organization's staff, volunteer, or contractor. The chief administrator must initiate a thorough investigation of all reported incidents, submit an administrative summary of the investigation to the Department, and administer appropriate disciplinary action. ()

228. AUTHORIZATIONS REQUIRED.

Written authorization must be obtained from the parent, guardian, or court of jurisdiction to obtain and provide routine medical care, emergency medical and surgical care, and mental health care for the child. ()

229. HEALTH SERVICES.

The organization must assure appropriate health care is provided as follows: ()

01. Physical Exam. The organization will provide documentation of a physical exam within the last year by a licensed physician. If a child has not received a physical exam within the last year, it must be done within thirty (30) days of admission and annually thereafter. For a child under two (2) years old physical exams will be scheduled as determined by a licensed physician. ()

02. Immunizations. Documentation of current immunizations or exemptions for immunizations will be maintained according to Section 39-4802, Idaho Code, within thirty (30) days of admission. ()

03. Timely Medical Care. The organization will obtain or provide timely medical care for the treatment of injuries and illnesses, and will carry out corrective measures and treatment as ordered by the medical professional. ()

04. Required Documentation. Documentation will be maintained of all medical treatment provided, applicable medical insurance provider(s), policy numbers, and who holds the policy. ()

230. DENTAL SERVICES.

Organizations must ensure and document the child has had a dental exam within the last nine (9) months or a dental

exam within three (3) months of admission. An annual dental exam and necessary dental treatment, including prophylaxis, extraction, repair and restoration will be provided as ordered by the dentist. Dental care will be provided for a child under the age of three (3) when the child's dental needs indicate. ()

231. PHYSICAL RESTRAINT INTERVENTION.

An organization must have processes governing the appropriate use of physical restraint intervention strategies which follow a nationally recognized program. Physical restraint intervention strategies must: ()

01. Protection. Be used only when a child's behavior could physically harm themselves or others, or to prevent the destruction of property, when the child fails to respond to nonphysical behavior management interventions. ()

02. Intervention Time Guidelines. Be used only until the child has regained control, not exceed fifteen (15) consecutive minutes, and include documentation of attempts made to release the child from the restraint. ()

03. Intervention Training Requirements. Be used only by employees or volunteers documented to have been specifically trained in its use and authorized to apply such strategies. ()

04. Conditions Limiting Restraint Use. Prohibit the application of a physical restraint intervention if a child has a documented physical condition that would contraindicate its use unless a medical professional has previously and specifically authorized its use in writing. Documentation will be maintained in the child's record. ()

05. Intervention Documentation. Require documentation of the behavior that required physical restraint intervention, the specific attempts to deescalate the situation before using physical restraint, the length of time the physical restraint was applied which includes documentation of the time started and completed, and the debriefing completed with the staff and child involved in the physical restraint. ()

06. Subsequent Review. Whenever physical intervention is used on a child more than two (2) times in one (1) week, require a review and appropriate action taken by the organization. ()

232. PROHIBITED RESTRAINTS.

The following restraints are prohibited: ()

01. Mechanical, Chemical, and Alternative Forms. ()

02. Transporting Children Using Restraints. ()

03. Prone Restraints. ()

233. GRIEVANCE POLICY.

An organization's grievance policy must be in simple and clear language, require prompt investigation of the grievance by a person who can be objective, and provide at least one (1) level of appeal. The policy must be signed by the parent and guardian, if applicable, and the person receiving services. The policy will be shared in a manner appropriate to the person's age and their ability to understand, and requires monitoring to ensure there is no retaliation against the person who files a grievance. ()

234. SUICIDE PREVENTION PLAN.

An organization must develop and follow a written suicide prevention plan that addresses the needs of the population the organization serves. ()

235. CLOTHING.

An organization must ensure each child has sufficient clean, properly fitting clothing, appropriate for the child's age, individual needs, program, and season. ()

236. EDUCATION POLICY.

Except for an outdoor program, children of school age, under state law, must be enrolled in an appropriate school program within five (5) school days after a child's placement or the organization must document why the child was unable to enroll. ()

237. PERSONAL POSSESSIONS, ALLOWANCE, AND MONEY POLICY.

An organization must have and follow a personal possessions, allowance, and money policy that includes: ()

01. Financial Accounting. Payment of, and accounting for, any allowance, social security benefits, and other financial benefits to a child. ()

02. Child's Personal Possessions. ()

a. Documented accounting for a child's personal possessions, clothing with which the child came into care, and items which were obtained while in care, and documented return of all inventoried items to the child, parent, or guardian at discharge, except illegal contraband and other items prohibited by the organization. ()

b. At the time of inventory and when the items are returned, the organization must obtain the signature of the parent, guardian, or child who can understand the purpose of the inventory. In the event of a child's elopement, clothing and other personal belongings must be secured until the child returns or other arrangements are made. ()

238. EMERGENCY POLICIES.

An organization must have emergency processes that ensure a caregiver has and follows the organization's procedures for the following emergencies: ()

01. Fire. ()

02. Natural Disaster. ()

03. Serious Accident or Injury. ()

04. Medical. ()

05. Missing Child. ()

06. Power Outage. ()

07. Bomb Threat. ()

08. Severe Weather. ()

09. Hostage Taking. ()

10. Active Shooter. ()

11. Other Dangers Unique to the Location of an Organization. ()

239.– 299. (RESERVED)

CHILDREN'S AGENCY LICENSING FOSTER HOMES
SECTIONS 300 – 350

300. POLICIES.

A children's agency that licenses foster homes must have policies that comply with IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499, and may require that additional foster care rules be met if the agency deems appropriate. ()

301. FOSTER FAMILY HOME STUDY.

The agency must conduct and maintain an appropriate home study based on IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499, to determine if the family meets required licensing standards to be issued a foster care license. ()

302. TRAINING.

The agency must have and follow a training policy that includes completing the orientation and ongoing training requirements of IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499. All foster care training must be documented in the foster parent's case file record. ()

303. EMERGENCY EVACUATION PLAN.

An agency must have a policy requiring foster homes to have an agency-approved a written evacuation plan. ()

304. PLACEMENT AGREEMENT.

The agency must use a placement agreement, signed by the foster parents and the agency before placing a child in a foster home, that identifies the responsibilities of the agency including supervision, support services for the foster family, and the responsibilities of the foster family. The foster family must be informed of and agree to follow the agency's policies and procedures. An agency must review annually the agreement with the foster family and, when needed, develop a new agreement. The organization must provide the foster family with a copy of the signed current placement agreement and maintain a copy in the foster home record. ()

305. CHILDREN'S AGENCY SUPERVISION OF CHILD.

An agency must develop a plan of supervisory visits with a child in foster care consistent with the child's service plan. The child's record must contain documentation that the agency case manager personally visited the foster child at least once each month with at least one-half (1/2) of the visits occurring in the foster home. An agency may reduce the number of the agency's case manager visits with a child to once every ninety (90) days if there is documentation and justification in the service plan that a child's placement in a foster home is a long-term planned placement. ()

306. COMPLAINT INVESTIGATION PROCESS.

01. Initiation of Complaint Investigation. When a complaint is received that relates to possible foster parent noncompliance with IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499, an agency must initiate a complaint investigation as soon as is indicated, based on seriousness of the allegation received, and no later than seven (7) calendar days after receipt of the allegation. ()

02. Agency Report. Upon completion of the investigation, an agency must prepare a written report that includes: ()

a. The specific allegations; ()

b. Findings of fact, based on the investigation; ()

c. Conclusions regarding noncompliance with IDAPA 16.06.02, "Child Care and Foster Care Licensing," Sections 400 through 499; ()

d. Any changes in the agency's decision regarding placement specifications, based on the investigation's findings; and ()

e. Recommendations regarding licensing action and any required corrective action. ()

307. RECORDS MANAGEMENT.

An agency must maintain the following records: ()

01. Foster Home Record Contents. All documents pertaining to licensing of the home, any complaint investigation reports, and placement agreements between a foster parent and the agency. ()

02. Placement Record. A complete record identifying all children placed in the foster home and removed from the home, including: ()

- a. Full name, age, gender, and race of the child; ()
- b. Date of the placement; ()
- c. Date and reasons for a foster child's departure from the foster home; and ()
- d. Any corrective action plans. ()

308. CONTENT OF CHILD'S RECORD.

At the time of a child's placement, the person admitting the child must document in the child's record their physical and emotional state at the time of placement. An organization must document the following at the time of placement, and if not available at the time of an emergency placement, then within seven (7) days: ()

- 01. Child's Full Name.** ()
- 02. Date of Birth.** ()
- 03. Gender.** ()
- 04. Height, Weight, Hair and Eye Colors, Race, and Identifying Marks.** ()
- 05. Last Known Address and with Whom Child Lived.** ()
- 06. Last School Attended.** Include previous grade level, current grade level, and scholastic performance. ()
- 07. Parental Information.** Include full names, marital status, and addresses unless parental rights are terminated. ()
- 08. Guardian's Name and Address.** ()
- 09. Date of Admission.** ()
- 10. Name of Who Placed Child.** ()
- 11. Nature of Child's Problems.** Include the reason for being served. ()
- 12. Documentation of Authority to Accept and Care for Child.** ()
- 13. Child's Evaluations.** Include the child's physical, social, and emotional development, and any special problems and needs they have, including medical, surgical, and dental care needs. ()
- 14. Reports.** Include psychological tests, psychiatric examinations, and follow-up treatment if obtained. ()
- 15. Communications.** Include records of the child's contacts with their family. ()

309. SERVICE PLANS.

An organization must develop and follow a written service plan that includes the following: ()

- 01. Initial Service Plan.** To be developed and recorded in the child's record within thirty (30) days after admission and must: ()
 - a. Identify the needs of the child and family, provide goals, and a time frame to achieve the goals;

- ()
- b. Establish and document criteria for discharge; ()
 - c. Demonstrate the service plan was developed with participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation in development of the service plan if they are under nine (9) years old or incapable of understanding the purpose of the planned services; and ()
 - d. Identify the persons responsible for coordinating and implementing the child's and family's treatment goals. ()
- 02. Updated Service Plan.** To be updated every ninety (90) days and: ()
- a. Document progress towards achieving the goals in the service plan; and ()
 - b. Demonstrate the service plan was developed with participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation in development of the service plan if they are under nine (9) years old or incapable of understanding the purpose of the planned services. ()
- 310. DISCHARGE SUMMARY.**
A discharge summary must be written within seven (7) days of discharge that includes: ()
- 01. Date of and Reason for Discharge.** ()
 - 02. Physical, Emotional, Medical, and Educational Needs of Child.** ()
 - 03. Recommendations for Treatment.** ()
 - 04. Documentation of Disrupted Placements, Assessed Causes, and Any Corrections.** ()
- 311 – 350. (RESERVED)**

**CHILDREN'S AGENCIES PROVIDING ADOPTION SERVICES
Sections 351 – 399**

- 351. PRE-ADOPTIVE HOME.**
A home that has an approved adoption home study in which a child is placed for the purpose of adoption is not subject to foster home rules. ()
- 352. ADOPTION SERVICES – NONPROFIT STATUS.**
An agency must provide documentation that it is incorporated as a nonprofit corporation. ()
- 353. POLICIES AND PROCEDURES.**
An agency must have and follow policies and procedures for the adoption services it provides or facilitates including services for children, birth parents, adoptive applicants and parents, post-placement services, and post-finalization services. ()
- 354. CHILDREN AWAITING ADOPTIVE PLACEMENT.**
For children under the supervision of the agency awaiting adoptive placement in a licensed foster home, there must be a documented review every month for an infant one (1) year old or younger, and every three (3) months for a child over one (1) year old, to determine actions necessary to locate an adoptive placement for the child. ()
- 355. SERVICES FOR CHILD'S BIRTH PARENTS.**
An agency that accepts custody of a child from a birth parent(s) must provide services for the parent(s) either directly or through cooperative arrangements. The agency must ensure that the legal rights of the birth parent(s) are protected including checking the putative father registry and release of records, under Title 16, Chapter 15, Idaho Code, and Title 16, Chapter 20, Idaho Code, "Termination of Parental Rights and Adoptions." The agency will respect the

expressed desires of either or both birth parents to provide for continuity of identity of the child's religious, cultural, racial, linguistic, and ethnic background, provided the desired request does not deny or delay placement for adoption under the Multi-ethnic Placement Act (MEPA), P.L. 103-382 and P.L. 104-188, 42 USC, Section 622, and provided such considerations are legal. ()

356. FINANCIAL ASSISTANCE TO BIRTH PARENT.

Under Section 18-1511, Idaho Code, documentation of financial assistance to the birth parent is maintained in the file. ()

357. SERVICES FOR ADOPTIVE APPLICANTS.

An agency must provide the following to its adoptive applicants: ()

01. Suitability Criteria. Information about specific criteria by which the agency determines suitability as adoptive parents and areas the agency assesses to determine the ability of the adoptive applicants to meet the needs of an adopted child. ()

02. Selections and Services for a Specific Child. Procedures for selection of adoptive applicants to meet the needs of a specific child and, where indicated, assistance in obtaining resources and services to meet the continuing needs of the child. ()

03. Legal Assessment. Procedures for assuring that a child placed is legally free for adoption, or an explanation that the placement is a legal-risk placement and any efforts made to free the child for adoption. ()

04. Preparation for Placement. Procedures for preparing an applicant for parenting and placement of a child. ()

05. Counseling. Offer or arrange counseling for prospective adoptive parents including assistance in understanding a child's religion, culture, ethnic, or linguistic background and the impact of leaving familiar ties and surroundings, including attachment issues and living in an institution, as appropriate to the age of the child. ()

06. Termination of Services. Procedures for termination of services for an applicant found to be unsuited for adoptive parenthood or for an applicant found suited to adopt but for whom a child cannot be found. ()

07. Financial. Provide a clear delineation of fees, charges, and other considerations for adoption services that include: ()

a. Specific charges for expenses and services provided within the agency; ()

b. Chronological itemization of fees for expenses and services provided by other identified sources; ()

c. Identification of the charges that are refundable and nonrefundable; and ()

d. The manner and timing of payments. ()

358. PAYMENT LIMITATIONS IN ADOPTION.

An agency must prohibit the actual or promised payment or other material consideration to any party directly or indirectly involved in the administration of an adoption service, whether acting as an employee or independent contractor, except for the performance of routine professional duties necessary to complete the adoption process. ()

359. PROHIBITION OF CONTRIBUTIONS IN ADOPTIONS.

An agency must not accept contributions from adoptive applicants or from persons acting on the applicant's behalf during the period of application or before an adoption has been finalized, nor accept a commitment to make a contribution after an adoptive placement. ()

360. PROHIBITION OF STAFF HOME STUDY.

An agency must not do an adoption home study for its own staff, board member, or person with whom the agency contracts to provide services for the agency. ()

361. OUT-OF-STATE HOME STUDY.

An agency may accept a home study from another out-of-state agency, with the following conditions: ()

01. Out-of-State Approval. The out-of-state agency or individual is licensed or approved by a court in their state to provide adoptive home studies. ()

02. Verification. The Idaho agency verifies licensure by receipt of a copy of the license or court approval. ()

03. Agreement. There is a documented agreement of the terms of services between agencies. ()

04. Documented Review of Home Study. The Idaho agency must document a review of the home study. ()

362. FAMILY HOME STUDY, APPLICATION PROCESS, AND CONTENT.

An agency must complete or obtain a home study and application before approving the home for the placement of a child. ()

01. Required Information. The home study must include the following: ()

a. When there is a change in persons residing in the home, the applicant must notify the agency of the change by the next working day, and the new adult member must complete a background check; ()

b. Verification that the age of the applicant complies with Section 16-1502, Idaho Code; ()

c. Names, including maiden or other names used; ()

d. Social Security Number; ()

e. Education; ()

f. Verification of marriages and divorces; ()

g. Religious and cultural practices, including their willingness and ability to accommodate or provide care to a child of a different race, religion, or culture; ()

h. A statement of income and financial resources and the family's management of these resources; ()

i. Marital relationship, if applicable, including decision-making, communication, and roles within the family; ()

j. Description of individuals and family dynamics with each member of the household; ()

k. Documentation of any current or past family problems, including mental illness, substance abuse, addiction, and medical conditions; ()

l. Previous criminal convictions of child abuse and neglect; ()

m. Family history, including childhood experiences and the applicant's parents' methods of discipline and problem solving; ()

n. Special needs of the applicant's children and a description of how they will adjust to a new member

- of the household; ()
- o.** Interests and hobbies; ()
 - p.** Adequacy of the house, property, and neighborhood as determined by onsite observations; ()
 - q.** Child care and parenting skills; ()
 - r.** Current methods of discipline; ()
 - s.** Demonstrated understanding of the care that must be provided to the children served by the agency or express a willingness to learn how to provide that care; ()
 - t.** The applicant has adequate time to provide care and supervision for children; ()
 - u.** Demonstration of a home life that gives children the emotional stability they need. No marital or personal problems may exist within the family that would result in undue emotional strain in the home or be harmful to the interest of children placed in the home; ()
 - v.** A medical statement for each applicant and members of the household, signed by a medical professional, within the twelve (12) month period prior to initial approval for adoption, indicating they are in such physical and mental health so as to not adversely affect either the health or quality of care for children placed in the home; ()
 - w.** Three (3) satisfactory references, one (1) of which may be from a person related to the applicant(s); ()
- address;
- x.** Names of each member of the household; this includes any persons who reside at the applicant's address; ()
 - y.** Each adoptive parent's reasons for applying to be an adoptive parent and prior efforts to adopt; ()
 - z.** Understanding of the permanence of adoption; ()
 - aa.** The family's prior and current experiences with adoption; ()
 - bb.** The attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; ()
 - cc.** Family's attitudes toward the adoptive child's birth family and willingness to allow them contact with the child after adoption; ()
 - dd.** Applicant's experience with other support agencies or resources in their communities and their comfort level in seeking help from services outside the family; ()
 - ee.** Applicant's awareness of the potential for the child to have identity issues and loss regarding separation from birth parents; ()
 - ff.** Applicant's ability to accept a child's background and help the child cope with their past; ()
 - gg.** Applicant's understanding that the child will have questions about birth parents and other relatives; ()
 - hh.** Specifications of children preferred by the family that include the number of children, and the age, gender, race, ethnic background, social, emotional, and educational characteristics; ()

ii. Information on the adoptive family's medical insurance coverage including insurance carrier, policy number, eligibility of new adoptive family member(s), limitations, and exclusions; and ()

jj. How the household will fulfill their transportation needs. ()

02. Pre-Adoptive Parent to Inform Agency of Changes. The pre-adoptive parent is responsible to keep the agency that completed the home study informed of changes in the family's circumstances, or of any subsequent decision against adoption. ()

03. Adoptive Placement Agreement. A home study is valid for the purposes of new adoptive placement for a period of one (1) year following the date of completion. Upon completion of an adoptive placement agreement, a home study remains valid for a period of two (2) years from the home study date of completion for the purpose of finalizing the adoption of the child(ren) for whom the adoptive placement agreement was written. ()

363. SAFETY REQUIREMENTS.

The property, structure, premises, and furnishings of an adoptive home must be constructed and maintained in good repair, in a clean condition, free from safety hazards and dangerous machinery and equipment. Areas and equipment that present a hazard to children must not be accessible by children. ()

01. Pools, Hot Tubs, and Ponds. Homes must provide the following safeguards: ()

a. Around any body of water, children have appropriate adult supervision consistent with the child's age, physical ability, and developmental level; ()

b. The area surrounding access to a body of water for use by children will be secured by a fence and locked in a manner that prevents access by children, or have a secured protective covering that prevents access by a child; ()

c. Pool or hot tub covers be completely removed when in use; ()

d. When the pool or hot tub cover is in place, the cover is free from standing water; ()

e. Covers are always secured when the pool or hot tub is not in use; and ()

f. Exterior ladders on above ground pools be removed when the pool is not in use. ()

02. Access by Children Five Years Old and Under. Any home that has children five (5) years old or younger and chooses to prevent access to a body of water by fencing must provide the following: ()

a. The fence be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; ()

b. The gate be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; ()

c. If the house forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool have alarms that produce an audible sound when the doors are opened; and ()

d. Furniture or other large objects will not be left near the fence enabling a child to climb on the furniture and gain access to the pool. ()

03. Irrigation Canals or Similar Bodies of Water. A home that has a child five (5) years old or younger or a child who is physically or developmentally vulnerable, whose property adjoins an irrigation canal or similar body of water, must have fencing that prevents access to the canal or similar body of water. ()

364. FLAME AND HEAT-PRODUCING EQUIPMENT.

A home that has a furnace, fireplace, wood-burning stove, water heater, and other flame or heat-producing equipment must ensure that said equipment is installed and maintained as recommended by the manufacturer, and fireplaces protected by screens or other means. ()

365. SMOKE AND CARBON MONOXIDE DETECTORS.

Each home must meet the following: ()

01. Smoke Detectors. There will be: ()

a. At least one (1) single-station smoke detector that is installed and maintained as recommended by the manufacturer; ()

b. One (1) smoke detector on each floor of the home, including the basement; ()

c. One (1) smoke detector in each bedroom; and ()

d. One (1) smoke detector in areas of the home that contain flame or heat-producing equipment other than domestic stoves and clothes dryers. ()

02. Carbon Monoxide Detectors. There will be at least one (1) carbon monoxide detector installed and maintained as recommended by the manufacturer. A house that does not have equipment which produces carbon monoxide or does not have an attached garage is exempt from this requirement. ()

366. EXITS.

There must be at least two (2) exits from each floor level used by a family member that are remote from each other, one (1) of which provides a direct, safe means of unobstructed travel to the outside at street or ground level. A window may be used as a second exit if in compliance with these rules. ()

367. DANGEROUS AND HAZARDOUS MATERIALS.

Dangerous and hazardous materials, objects, or equipment that could present a risk to a child, including poisonous, explosive, or flammable substances must be stored securely and out of reach of a child for the child's age and functioning level. ()

368. FIREARMS AND AMMUNITION.

Ammunition must be in a locked container and inaccessible to children. Firearms must be: ()

01. Trigger Locks. Unloaded and equipped with a trigger lock; ()

02. Unassembled and Inoperable. Unloaded, fully inoperable, and unassembled; ()

03. Locked Cabinet or Container. Unloaded and locked in a cabinet or storage container that is inaccessible to children; or ()

04. Gun Safe. Locked in a gun safe that is inaccessible to children. ()

369. PETS AND DOMESTIC ANIMALS.

Any pet or domestic animal that is suspected or known to be dangerous must be kept in an area inaccessible to children. ()

370. HEAT, LIGHT, AND VENTILATION.

A home must have adequate heat, light, and ventilation. ()

371. BATHROOMS, WATER SUPPLY, AND SEWAGE DISPOSAL.

A home must meet the following: ()

01. Bathrooms. A minimum of one (1) flush toilet, one (1) sink that has warm and cold running water, and one (1) bathtub or shower that has warm and cold running water, all in good working order. ()

02. Water Supply. The water supply meets one (1) of the following requirements: ()

a. It is water used for consumption that is bottled water from an acceptable source or water boiled for a period specified by the health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; or ()

b. Water used for consumption is from an acceptable source, bottled water from an acceptable source, or boiled for a period specified by the local health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ()

03. Sewage Disposal. Sewage will be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, under IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules." ()

372. TRAININGS FOR ADOPTIVE APPLICANTS.

The agency must provide or arrange the following training specific to the needs of the adoptive child and family, and maintain training records: ()

01. Orientation. Orientation describes the agency's adoption process and procedures, the availability of children for adoption, explains policies and procedures regarding adoptive placement, the kinds of children available, and the nature of the home study. ()

02. Initial Training. Each applicant will complete not less than ten (10) hours of training prior to the placement of a child. ()

03. Specific Training. The agency will provide or arrange specific training related to the culture and race of the child who is of a different culture or race from the adoptive parents. ()

373. SERVICES FOR ADOPTIVE PARENTS.

An agency must provide or arrange for the following services to adoptive parents served by the agency: ()

01. Disclosure of Non-Identifying Child Information. Disclosure of all non-identifying information known to the agency about the child, the child's birth parents, and the circumstances leading to the decision to place for adoption. ()

02. Post-Placement Services. Post-placement services related to support for the family and supervision of the placement. ()

03. Provision of Resources. Provision of resources, or for the arrangement thereof, to ensure a safe, stable, and suitable placement for the child and the family, including information regarding the federal adoption assistance program. ()

04. Adoption Finalization Assistance. ()

a. Help in finalizing the legal adoption. The agency must obtain a copy of the final order of adoption. ()

b. Upon request, the agency, either directly or by referral to a resource, will assist the family with any identified problems associated with the adoption. ()

374. SELECTION OF AN ADOPTIVE PLACEMENT.

An agency must consider the following factors in selecting adoptive parents for a child: ()

01. Child's Needs. The physical, emotional, medical, and educational needs. ()

02. Continued Contact. The child's needs for continued contact with the birth parent(s) and other

persons significant to the child. ()

03. Racial, Ethnic, and Cultural Considerations. Under the Multiethnic Placement Act (MEPA), P.L. 103-382 and P.L. 104-188, 42 USC, Section 622, the child's racial, ethnic, cultural identity, heritage, and background may only be considered if a written assessment indicates that such consideration is in the best interest of the child. ()

04. Authorized Placement on Approved Recommendations. The agency must require authorization by a chief administrator or case manager supervisor after the recommendations of approval are given by a case manager. The approval or denial must be documented in the case record. ()

05. Placement. An agency will place a child with agency-approved adoptive parents consistent with the recommendations specified in the home study and the needs of the child. ()

375. ADOPTIVE CHILD INFORMATION.

An agency must provide adoptive parents with the following before the placement of a child: ()

01. Name. Child's name as permitted by law or disclosure agreement. ()

02. Date, Time, and Location of Birth. For children, up to two (2) years old, include the hospital, city, state, and country of birth. ()

03. Racial, Ethnic, and Religious Considerations. ()

04. Medical Records. Include physical and mental health records and special needs. ()

05. Family of Origin. Description of the child's family of origin, including age and gender of each family member, their relationship to the child, medical and mental health history, and social and education history of each member of the family. ()

06. Circumstances of the Placement. Description of the circumstances necessitating placement. ()

07. Preparation for Placement. Child's preparation for placement and attitude towards adoption. ()

08. Other Information. Any other information to enable the adoptive parent to provide a stable, safe, and healthy environment for the child. ()

376. POST-PLACEMENT.

An agency case manager must provide post-placement supervision to the adoptive family at the family's home at least thirty (30) days post-placement, then once every three (3) months before the final order of adoption. Supervisory reports must include: ()

01. Documentation of Adjustment. Assessment and documentation of the child's and adoptive family's adjustment and, where indicated, plans to assist the child and family. This includes physical, emotional, medical, and educational needs of the child. ()

02. Medical Care Documentation. All medical care received during the supervisory period. ()

03. Assessment Results. Informing the adoptive parents of the results of the agency's assessment of the placement at the conclusion of each supervisory contact. ()

04. Disrupted Placement. Documentation of disrupted placements, assessed causes, and any corrections. ()

377. – 380. (RESERVED)

381. INTERCOUNTRY ADOPTION SERVICES.

An agency providing intercountry adoption services must include in its program description of intercountry adoptive placement services that it provides services either directly or through collaboration with other agencies or individuals with proper credentials. When an adoption agency provides intercountry adoption services for a Hague accredited agency, they will have an Exempt Provider Agreement and copy of the agency's license or Hague accreditation. ()

382. LEGAL REQUIREMENTS.

A children's agency that arranges an intercountry adoption must: ()

01. Agreement. Maintain a file and provide for review to prospective adoptive families an English-translated copy of any agreement that exists between a foreign government and the agency. ()

02. Adoptive Home Standards. Receive an approval letter from United States Citizenship and Immigration Services (USCIS). ()

03. United States Placement. Follow USCIS procedures to ensure that the child is or will be authorized to enter and reside permanently in the United States. ()

04. Citizenship. Inform families about how to obtain citizenship for a foreign-born adopted child. ()

05. Child's Legal Status. Acquire documentation that, at referral, the child is legally free for intercountry adoption. ()

383. – 399. (RESERVED)

**CHILDREN'S RESIDENTIAL CARE FACILITIES AND OUTDOOR PROGRAM
Sections 400 – 407**

400. INTAKE POLICY.

An organization must have and follow an intake policy that sets the criteria for admitting children for care or services and keeps with the organization's purpose and services provided. Except for an emergency placement, the intake policy must include a requirement that sufficient information on each child admitted for care or services is obtained to determine that the child can be appropriately served by the organization. An emergency placement policy requires that the information needed to determine the appropriateness of continuing the placement or services is obtained within seven (7) days admission of placement. ()

401. CONTENT OF CHILD'S RECORD.

Except for nonaccredited residential schools at the time of a child's placement, the person admitting the child must document in the child's record the child's physical and emotional state. At the time of placement, and if not available at the time of an emergency placement then within seven (7) days, an organization must document complete biographical and identifying information on each child admitted into care. The record must contain the following: ()

01. Child's Full Name. ()

02. Date of Birth. ()

03. Gender. ()

04. Height, Weight, Hair and Eye Colors, Race, and Identifying Marks. ()

05. Last Known Address and with Whom Child Lived. ()

06. Last School Attended. Previous grade level, current grade level, and scholastic performance. ()

07. **Parental Information.** Full names, marital status, and addresses unless parental rights are terminated. ()
08. **Guardian's Name and Address.** ()
09. **Date of Admission.** ()
10. **Name of Who Placed Child.** ()
11. **Child's Primary Diagnosis.** ()
12. **Nature of Child's Problems.** Reason for being served. ()
13. **Documentation of Authority to Accept and Care for Child.** ()
14. **Child's Evaluations.** Child's physical, social, and emotional development, and any special problems and needs they have, including medical, surgical, and dental care needs. ()
15. **Medications.** List of all medications the child is taking at time of admission. ()
16. **Reports.** Psychological tests, psychiatric examinations, and follow-up treatment if obtained. ()

402. VISITATION POLICY.

An organization must have and follow a visitation policy that includes the following: ()

01. **Encourage Visits.** The policy will encourage visits between a child and family members and others significant to the child except when visitation is contraindicated and is documented in the child's record. ()

02. **Visitation Log.** The policy will maintain a visitation log for each child in residential care which includes the name of the person visiting and the date and time of the visit. ()

403. CORRESPONDENCE POLICY.

An organization must have and follow a correspondence policy. The organization will keep records of the child's contacts with their family. The policy will specify the conditions under which the organization restricts the receipt of correspondence to or from a child and requires that the child and parent or guardian be informed of the restriction, the reason for the restriction, and that the restriction is documented in the child's record. The policy must prohibit staff from reading children's correspondence except where there is a legitimate documented reason to do so. When staff read a child's correspondence, the child must be present. Packages may be inspected. ()

404. RELIGIOUS AND CULTURAL POLICY.

An organization must have and follow a policy regarding religious participation, religious training, cultural heritage, and cultural practices of children. Upon placement of any child, the child's parents or guardians will receive a copy of this policy and acknowledge receipt with their signature and date. ()

405. PREGNANT MINOR.

01. **Pregnant Minor Protection.** A pregnant minor may not sign a statement committing to any definitive plan prior to the birth of her child and must not be subject to coercion to release her child before or after the birth of her child. ()

02. **Obstetrical Exam.** An obstetrical exam is required and to be completed within ten (10) days of entering care. ()

03. **Licensed Hospital Delivery.** Infant delivery must be in a hospital licensed by the state of Idaho; and ()

04. Prenatal and Postnatal Care. A pregnant minor must be provided educational information on prenatal and postnatal care as appropriate. ()

406. CONTINUED CARE.

Continued care is authorized under the Idaho Child Care Licensing Reform Act Sections 39-1202 and 39-1213, Idaho Code, for individuals eighteen (18) to twenty-one (21) years old. Individuals who are in the care of a licensed residential care facility prior to turning eighteen (18) years old may remain in the program for up to ninety (90) days after their eighteenth birthday, or up to the age of twenty-one (21) if necessary to complete a treatment program or school educational program currently attended by the individual. ()

407. DOCUMENTATION REQUIREMENTS FOR CONTINUED CARE.

Prior to accepting an individual into continued care the following is required: ()

01. Voluntary Agreement. A voluntary agreement to remain in the program signed by the person turning eighteen (18), or a copy of a court order authorizing continued placement after the individual's eighteenth birthday. ()

02. Assessment for Others' Safety. An assessment to assure that an individual does not jeopardize the health, safety, and well-being of the children in care of the organization. ()

03. Additional Continued Care Plans. A plan that prohibits individuals from sharing a bedroom or other sleeping rooms with a child. ()

04. Documentation of Care Prior to Eighteenth Birthday. Documentation verifying the individual was in the care of the organization prior to their eighteenth birthday. ()

05. Documentation of Need for Continued Care. Documentation verifying the individual needs to remain to complete treatment, education, or other similar needs. ()

**CHILDREN'S RESIDENTIAL CARE FACILITIES
Sections 408 – 465**

408. DIRECT CARE STAFF SUPERVISOR QUALIFICATIONS.

A direct care staff supervisor, at the time of appointment, must possess one (1) of the following: ()

01. Bachelor's Degree. A Bachelor's degree from an accredited college and one (1) year of full-time experience in a children's residential care facility. ()

02. Associate's Degree. An Associate's degree or a minimum of forty-eight (48) credit hours from an accredited college and two (2) years of full-time experience in a children's residential care facility. ()

03. Experience. A high school diploma or equivalent and three (3) years of full-time experience in a children's residential care facility. ()

409. DIRECT CARE STAFF QUALIFICATIONS.

Direct care staff must be at least nineteen (19) years old at the time of appointment and possess a high school diploma or equivalent. ()

410. REQUIRED STAFF RATIOS.

Except for nonaccredited residential schools, there must be staff ratio policies with the following requirements:()

01. Supervisor-Staff Ratio. At least one (1) direct care staff supervisor for every twenty (20) direct care staff or less. ()

02. Staff-Child Ratio - Daytime. One (1) direct care staff to every eight (8) children when children are awake and present, unless the presenting problems of the children are such that a ratio of one (1) to eight (8) is not

sufficient to provide for the safety and treatment needs. In that case, the ratio of direct care staff to children must be increased to ensure the safety and treatment needs are met. ()

03. Staff-Child Ratio - Sleeping Hours. One (1) awake direct care staff to twenty (20) children or less during the children's normal sleeping hours. Each individual building that houses the children's sleeping rooms must meet this ratio. If the presenting problems of the children are such that a ratio of one (1) to twenty (20) is not sufficient to provide for the safety and treatment needs, then the ratio of direct care staff to children must be increased to ensure the safety and treatment needs are met. ()

04. Medical Emergency. One (1) staff on duty who is certified to provide cardiopulmonary resuscitation (CPR) and first aid for the age of the children. ()

05. Emergency Staff Access. When only one (1) direct care worker is on duty, an additional staff will be available within ten (10) minutes or if assistance from first responders is available within ten (10) minutes, an additional staff will be available within thirty (30) minutes to assist with an emergency. ()

411. SERVICE PLANS.

Except for nonaccredited residential schools, an organization must develop and follow written service plans for a child admitted into care. ()

01. Initial Service Plan. Must be developed and recorded in the child's record within thirty (30) days after admission with the following: ()

- a. Identify the needs of the child and family, and provide goals and a time frame to achieve the goals; ()
- b. Services the organization will provide to assure the safety, health, permanency, and well-being of the child; ()
- c. Criteria for discharge and projected discharge date; ()
- d. Demonstrate the service plan was developed with participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation if they are under nine (9) years old or incapable of understanding the purpose of the planned services; and ()
- e. Identify the persons responsible for coordinating and implementing the child's and family's treatment goals. ()

02. Updated Service Plan. Must be updated every ninety (90) days and: ()

- a. Document services the organization will provide to assure the safety, health, permanency, and well-being of the child; ()
- b. Document progress towards achieving the goals in the service plan; ()
- c. Demonstrate the service plan was developed with participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation if they are under nine (9) years old or incapable of understanding the purpose of the planned services. ()

03. Placements Less Than Thirty Days. A service plan for placements less than thirty (30) days must document the following upon admission: ()

- a. The immediate needs of the child; and ()
- b. Services the organization will provide to assure the safety, health, and well-being of the child. ()

412. DISCHARGE SUMMARY.

Except for nonaccredited residential schools, a discharge summary must be written within seven (7) days of discharge and must include: ()

- 01. Date of and Reason for Discharge.** ()
- 02. Physical, Emotional, Medical, and Educational Needs of Child.** ()
- 03. Recommendations for Treatment.** ()
- 04. Documentation of Disrupted Placements, Assessed Causes, and Any Corrections.** ()

413. COMPLIANCE WITH APPLICABLE LAWS.

An organization must comply with the applicable Idaho state and local zoning, fire, health, construction laws, ordinances, and regulations. The applicant must complete the following at the time of initial application: ()

- 01. Sanitation Inspection.** Obtain a sanitation inspection and report from the applicable Public Health District; ()
- 02. Fire Inspection.** Obtain a fire safety inspection and report from the office of the Idaho State Fire Marshall, or local fire department; ()
- 03. Corrective Action and Fees.** Correct all deficiencies noted in the sanitation and fire reports. Document that the applicant has passed the inspections and paid any outstanding fees; and ()
- 04. Building, Planning and Zoning.** Provide documentation demonstrating the facility meets the planning and zoning requirements of the applicable local laws, ordinances, and regulations and is in compliance with IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)." ()

414. BUILDING REQUIREMENTS.

An organization must meet the following: ()

- 01. Access to Community Resources.** Have access to school facilities, hospitals, recreational, and other community resources. ()
- 02. Occupancy Restrictions.** House only the number of persons for which it is rated, given its type of construction and size. ()
- 03. Location Restrictions.** Not be located within three hundred (300) feet of an aboveground storage tank containing flammable liquids or gases used in connection with a bulk plant, marine terminal, aircraft refueling, or bottling plant of a liquefied gas installation, or similar hazard. ()

415. NATIONAL ELECTRICAL CODE COMPLIANCE.

A building used to house children must comply with the National Electrical Code under IDAPA 24.39.10, "Rules of the Idaho Electrical Board." ()

416. FIRE SAFETY REQUIREMENTS.

A building that houses children must be inspected by a state certified fire inspector before being occupied and on an annual basis thereafter for compliance with the applicable International Fire Code, under Section 41-253, Idaho Code. A copy of the inspection must be maintained at the facility with the following requirements: ()

- 01. Fire Extinguishers.** Each building used to house children is to have a minimum of one (1) 2-A-10BC extinguisher per floor, and if there is a kitchen on the floor, a fire extinguisher is to be in or immediately adjacent to the kitchen. Each fire extinguisher is to be inspected annually by a fire extinguisher service agency. ()
- 02. Smoke Detectors.** There must be one (1) smoke detector on each floor of the facility, approved by a nationally recognized testing laboratory, and installed and maintained as recommended by the manufacturer. Fire ()

alarm systems, fire suppression/sprinkler systems, and kitchen hoods must be maintained as required by the state-adopted International Fire Code and inspected annually. ()

03. Carbon Monoxide Detector. There must be one (1) carbon monoxide detector on each floor of the facility that is approved by a nationally recognized testing laboratory and installed and maintained as recommended by the manufacturer. A facility that does not have equipment that produces carbon monoxide or does not have an attached garage is exempt from this requirement. ()

417. EMERGENCY PROCEDURES.

An organization must have and follow policies and procedures governing the handling of emergencies which include evacuation plans, telephone numbers for contacting ambulances, medical personnel, fire departments, hospitals, poison control centers, police, location and use of first aid kits, and roster with telephone numbers of staff to be contacted, and other emergency services as appropriate. ()

418. FIRE DRILLS.

Fire drills must be conducted and recorded monthly, with each work shift participating in a drill once every three (3) months. Emergency evacuation routes must be posted in conspicuous locations on each floor of a building housing children. Where a fire alarm system is provided, evacuation drills must be initiated by activating the fire alarm system. ()

419. RECORD KEEPING.

Records must be maintained of required fire drills and include the following: ()

- 01. Identity of Person Conducting the Drill.** ()
- 02. Date and Time of Drill.** ()
- 03. Notification Method Used.** ()
- 04. Staff Members on Duty and Participating.** ()
- 05. Number of Occupants Evacuated.** ()
- 06. Problems Encountered.** ()
- 07. Weather Conditions During Evacuation.** ()
- 08. Time Required to Complete Evacuation.** ()

420. PUBLIC HEALTH DISTRICT INSPECTION.

The facility must provide documentation of an initial and annual inspection and approval by the applicable Public Health District before a license will be issued: ()

- 01. Inspection Copy.** A copy of the inspection must be maintained. ()
- 02. Food Permit.** A copy of the food permit must be posted. The facility must comply with IDAPA 16.02.19, "Idaho Food Code." ()

421. DRINKING WATER SYSTEMS.

The facility must comply with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ()

422. INSECT AND RODENT CONTROL.

The facility must effectively prevent insects, rodents, and other pests from entering or infesting the facility. ()

423. BUILDINGS, GROUNDS, FURNISHINGS, AND EQUIPMENT.

Buildings used to house children must be furnished with comfortable furniture, in good repair and appropriate to the age, size, and capabilities of the children. When an organization uses video monitoring systems, they must assure

privacy of the children. ()

424. MAINTENANCE.

Buildings, grounds, furnishings, and equipment must be kept clean, free of clutter, and in good repair. ()

425. EQUIPMENT STORAGE.

All facility cleaning equipment must be stored separate from the kitchen, from food preparation, service, and storage areas. Kitchen and bathroom sinks must not be used for cleaning mops, emptying mop buckets, or for any other purpose not connected with food preparation, or personal hygiene. ()

426. SERVICE SINK.

A building housing more than twelve (12) persons must have a service sink used for general maintenance purposes such as floor mopping and not used for food preparation, dishwashing, or personal hygiene. ()

427. BUILDING'S HAZARDOUS MATERIALS OR TOXINS.

Buildings used to house children must be free from hazardous materials and toxins. The organization must provide and maintain the following: ()

01. Radon Gas. Upon initial licensing, provide documentation of testing for radon gas. Buildings constructed prior to 1990 must provide documentation of asbestos or lead paint testing. ()

02. Hazardous Material. Maintain documentation at the facility confirming any hazardous material or toxin have been removed or do not pose a threat to the children served. Hazardous materials and toxins are not limited to lead paint, asbestos, and radon. ()

428. LIGHTING.

All rooms used by children must be appropriately lighted for safety and comfort. ()

429. HEATING.

Heating and ventilation equipment must be properly installed, inspected annually, and kept in good repair. Portable fuel burning and wood-burning heating appliances are prohibited. Portable electric heaters must not be used in sleeping rooms. Local fire officials must approve portable heaters used in other areas. ()

430. BATHROOM FACILITIES.

A building used to house children must have adequate, clean, and easily accessible bathroom facilities and the following ratios are required: ()

01. Toilets. One (1) per every ten (10) individuals. ()

02. Bathtub or Shower. One (1) for every eight (8) individuals. ()

03. Sink. One (1) for every ten (10) individuals, unless IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)," requires more for the type of building and its use. ()

04. Multi-Stall Bathrooms. There must be separate use of bathroom facilities for boys and girls over six (6) years old. Staff must not use a multi-stall bathroom when children are present in the bathroom. ()

431. SLEEPING ROOMS.

Sleeping rooms in a building used to house children must meet the following: ()

01. Size. Space requirements are as follows: ()

a. Seventy (70) square feet in a single occupancy room, exclusive of closet space. ()

b. Forty-five (45) square feet per occupant in a multiple occupancy room, exclusive of closet space. ()

c. Existing multiple occupancy sleeping rooms may be approved relative to square feet per occupant until the room is remodeled or the building is extensively remodeled. ()

d. Three (3) feet between the sides of beds when situated side by side, and two (2) feet at the end of the beds, when situated end to end. Beds may be placed against a wall. ()

02. Window Space. There must be sufficient window space for adequate natural light and ventilation. Emergency egress or rescue windows must comply with IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)." ()

03. Restrictions. A child over the age of one (1) cannot share a sleeping room with an adult. A sleeping room must not be in a stairway, hallway, unfinished attic, unfinished basement, or in a separate building apart from staff supervision. There must be separate rooms for male and female children. Except for adult restrictions, sleeping room arrangements may be determined by the facility's professionals to best meet the needs of the children. Sleeping rooms must be near adult supervision. ()

432. BEDS.

Each child must have their own bed that has substantial support, and is age and size appropriate. Each bed must have a comfortable, clean mattress that complies with the Consumer Product Safety Commission standard for mattresses, cpsc.gov. Each child must have seasonally appropriate bedding. The bed must be equipped with railings when used for children under two (2) years old. Over-and-under bunk beds must not be used for children under eight (8) years old. Cribs must meet Consumer Product Safety Commission, Crib Safety Tips available at: <https://www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs>. ()

433. STORAGE OF POISONOUS AND TOXIC MATERIALS.

Materials that are poisonous or toxic, or both, must be stored under lock and key and distinctly labeled as poisonous, toxic, and stored so as not to contaminate food and not to be a hazard to children. ()

434. FLAMMABLE LIQUIDS.

Flammable liquids, including gasoline, propane, and kerosene, must be stored only in appropriate containers and kept separate from any building that houses children. ()

435. FIREARMS.

Firearms are prohibited in a children's residential care facility. ()

436. SUFFICIENT RECREATIONAL SPACE.

Sufficient indoor and outdoor recreational space is needed so children can participate in a wide range of physical and individual activities. ()

437. GENERAL SAFETY PROVISIONS.

The following conditions must be met: ()

01. Reasonable Precautions. Prevent children from having unauthorized access to machinery, tools, irrigation ditches, and hazardous materials. ()

02. Balconies, Ramps, and Stairways. Provide substantial railings as per IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)." ()

03. Stairway Protection. Where an organization provides care to children under three (3) years old, stairways will be protected to prevent children from falling down the stairs. ()

04. Hazard Area Restrictions. Depending on the age and functioning level of children and the type of hazard, an outdoor hazard area will be restricted to prevent easy access. ()

05. Outdoor Activity Equipment. Equipment will be maintained in a safe condition free of sharp, loose, or pointed parts and anchored to the ground unless it is portable by design. The areas around and under high climbing equipment, swings, slides, and other similar equipment will be cushioned with material that absorbs falls. ()

Sand, woodchips, rubber mulch, or rubber mats commercially produced for this purpose are permitted. ()

438. DIAPERING AND SANITATION.

A diaper-changing area must be separate from food preparation and serving areas and be easily accessible to a handwashing sink. The area must have nonabsorbent and washable surfaces, and be disinfected between uses by different children or protected by a disposable covering discarded after each use. ()

439. SECURED FACILITIES.

Locked facilities are not allowed. Secured facilities using door delay security devices that prevent immediate egress must be approved by the local fire chief, cannot exceed fifteen (15) seconds, and comply with IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)." If the fire alarm is activated, the door must open immediately. The following conditions are required for secured facilities: ()

01. Prohibit Use as Detention. Facilities will not be used for detention of children who are determined to be delinquent or who require secure custody pending court adjudication, court disposition, execution of a court order, or after commitment; ()

02. Purpose. The secure facility is for the benefit, treatment, and safety of the child; and ()

03. Egress. Prevention of egress will not be used as punishment or for facilitating supervision for staff convenience. ()

440. EDUCATION PROGRAM.

Excluding children in a licensed non-accredited residential school, each child of school age must attend either an accredited onsite school, accredited online school, Idaho public school, or charter school that is approved by the Idaho State Board of Education. Organizations may also assist children in continuing education through their home school district, if available. When the education program is provided directly by the organization, the following must be met: ()

01. Teacher Ratio. At least one (1) Idaho certified teacher must be provided for every twenty (20) children or less. ()

02. Teacher Qualifications. Teachers must possess a current Idaho certification. ()

03. Minimum Hours. The school must provide education that meets the number of school days and clock hours as are required under Section 33-512, Idaho Code. ()

441. WORK.

Children may be given a nonvocational work assignment as a constructive experience under child labor laws, which are age-appropriate and within the child's capabilities. The primary purpose of work must not be to substitute for paid labor. ()

442. RECREATION, PHYSICAL EXERCISE, AND LEISURE TIME ACTIVITIES.

An organization must have a policy giving children the opportunity for daily participation in recreation, physical exercise, and leisure time activities and document the activities offered. Participation must be encouraged but not forced. ()

443. SLEEP.

An organization must have and follow policies and procedures giving each child the opportunity for at least eight (8) hours of uninterrupted rest at night and more time if the service plan or health needs of the child require. ()

444. SWIMMING POOL, POND, OR OTHER BODY OF WATER FOR USE BY CHILDREN.

An above-ground or in-ground swimming pool, hot tub, pond, or other body of water on the premises of an organization for use by children must comply with Section 56-1003(3)(d), Idaho Code, and with applicable federal, state, county, and municipal laws, regulations, and ordinances regarding swimming pool construction, sanitation, water quality standards, water temperature, recreational bathing, and life-saving. ()

01. Staff with Lifesaving or Lifeguard Certificate. The facility must maintain at least one (1) staff who has a valid lifesaving or lifeguard certificate issued by a nationally recognized organization. This certified staff must always be on duty when children are in the water. ()

02. Repair and Safeguards. The facility must maintain the pools, hot tubs, ponds, and other bodies of water on its property in good repair, clean condition, and free from safety hazards and dangerous machinery and equipment. Areas and equipment that are hazardous to children must not be accessible by children. The following safeguards must be provided: ()

a. The area surrounding a body of water for use by children will be secured by a fence and locked in a manner that prevents access by children, or have a secured protective covering that will prevent access by a child. ()

b. Pool or hot tub covers will be completely removed when in use; ()

c. When the pool or hot tub cover is in place, the cover will be free from standing water; ()

d. Covers will always be secured when the pool or hot tub is not in use; ()

e. A reaching pole with a hook and a ring buoy will be accessible; ()

f. Exterior ladders on above-ground pools will be removed when the pool is not in use; and ()

g. A child who does not know how to swim will use an approved, appropriately fitting, lifesaving personal flotation device. ()

03. Safety for Children Five (5) Years and Under. ()

a. Any organization that cares for children five (5) years old and under, and chooses to prevent access to a body of water by fencing must provide the following: ()

i. The fence will be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; ()

ii. The gate will be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; ()

iii. If a building forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool will have alarms that produce an audible sound when the doors are opened; and ()

iv. Furniture or other large objects will not be left near the fence enabling a child to climb on the furniture and gain access to the pool. ()

b. Children must be under the direct supervision of an adult while using any body of water including a wading pool. ()

c. Toys that attract young children to the pool area must be kept picked up and away from the pool area when not in use. ()

445. IRRIGATION CANALS, RIVERS, PONDS, OR SIMILAR BODIES OF WATER FOR A CHILD UNDER EIGHT YEARS.

An organization caring for a child eight (8) years and under, or a child who is physically or developmentally vulnerable, whose property adjoins an irrigation canal, river, pond, or similar body of water must have fencing that prevents access to the body of water by the child. ()

01. Staff Training. The facility must maintain at least one (1) staff who has a valid lifesaving, swift

water rescue, or lifeguard certificate issued by a nationally recognized organization for the type of water adjacent to or on the property, and this person must be on duty when any children are using the water for any purpose. ()

02. Use of Rescue Equipment. All staff must be trained on the location and use of the water rescue equipment. ()

03. Safety Equipment. Appropriate water rescue equipment must be maintained in an accessible area. ()

04. Fencing for Child Eight (8) Years and Under. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, and designed so that a young child cannot climb or squeeze under or through the fence. ()

446. IRRIGATION CANALS, RIVERS, PONDS OR SIMILAR BODIES OF WATER FOR CHILD OVER EIGHT YEARS.

When deciding whether a child over eight (8) years who is not developmentally, mentally, or physically disabled should have access to ponds, rivers, or other bodies of water on or adjacent to the facility, the facility must consider or provide the following: ()

01. Distance. The distance of the body of water from the closest facility structure. ()

02. Depth of the Water. ()

03. Water Flow. ()

04. Water Safety and Hazard Instruction to Child. ()

05. Assessment of Child's Swimming Ability. ()

06. Documentation of Required Level of Child Supervision. ()

07. Signed Acknowledgment of Instruction. The child and their parent or guardian must provide a signed and dated acknowledgment of receipt of instruction and water safety and hazard information. ()

447. SUPERVISION OF RECREATIONAL ACTIVITY.

Staff conducting or supervising a recreational activity must have knowledge of and enforce appropriate safety techniques for the recreational activity and do the following: ()

01. Instruction. Instruct each participant in the appropriate safety procedures. ()

02. Safety Equipment. Ensure that each participant uses adequate and appropriate safety equipment for the activity and the child's ability. ()

03. Rescue Equipment. Ensure that there is proper rescue equipment available and easily accessible. ()

04. Cardiopulmonary Resuscitation (CPR) and First Aid. Ensure that at least one (1) staff has current CPR and first aid certification appropriate to the age of the children. ()

05. Staff Coverage. Ensure that there is adequate staff for the activity and children involved. ()

448. CHILD'S HEALTH RECORD.

There must be a health record for each child, available to appropriate staff for emergency use and to provide for the child's routine care. The record must contain the following: ()

01. Initial Health Screening and History Including Allergies. ()

02. Child's Medical Provider's Name, Address, and Phone Number. ()

449. MEDICATION.

An organization must have and follow policies and procedures on the storage and administration, or assistance with medication, and comply with IDAPA 24.34.01, "Rules of the Idaho Board of Nursing." The policies must address the following: ()

01. Medication Storage. Require that prescription and over-the-counter medication be stored under lock and key and the keys are safeguarded from children. For medications taken on field outings, storage of medication must be in the possession of staff who is qualified to administer or assist with medications. The medication must be in the original pharmacy-dispensed container, or in an original over-the-counter container, or placed in a unit container by a medical professional. ()

02. Administration and Assistance. Require that staff who administer or assist with self administration of medications be trained by a medical professional. ()

03. Psychotropic Medication. Prohibit the administration of psychotropic medications: ()

a. Unless a medical professional determines that the medication is clinically indicated; and ()

b. For disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services. ()

04. Medication Changes. Document medications prescribed for the child while in care including the date prescribed and the prescribing physician. Prescribed medications must not be stopped or changed without consulting with a medical professional. Documentation of the consultation must include: ()

a. Names of the child, the medical professional, and staff consulting with the medical professional; ()

b. Date of the consultation; ()

c. Specific details of the change to include dosage, administration time, and instructions; and ()

d. Reasons for the change. ()

05. Documentation for Prescription Medication. Document all prescription medication issued by a medical professional's order to include dosage to be given, and the following: ()

a. The child's name; ()

b. The date and time; ()

c. The amount of dosage given and whether the child did not take the medication; and ()

d. The person who administered or assisted in self-administration of the medication. ()

06. Documentation for Nonprescription Medication. Document all over-the-counter medication and the following: ()

a. The child's name; ()

b. The date and time; ()

c. The amount of dosage given and whether the child did not take the medication; ()

d. The person who administered or assisted in self-administration of the medication; ()

e. The reason the medication was given. Over-the-counter medication will only be given according to the package instructions unless there is a child-specific valid order by a medical professional stating the medication is to be used for reasons other than those stated on the packaging; and ()

f. The effects of the medication. ()

07. Disposal of Unused Medication. Dispose of all unused and expired medication so they are not available to children. ()

450. UNIVERSAL PRECAUTIONS.

Universal precautions must be taken for spills of body fluids such as blood, blood containing body fluids, eye discharge, feces, body tissue discharge, nasal discharge, saliva, urine, vomit, contaminated material, and diapers, which must be disposed of in a plastic bag that is secured with a tie. The disinfectant solution used to clean up body fluids must be a commercially prepared spill kit or a disinfectant solution. The person doing the cleaning and disinfecting must wear nonporous disposable gloves. Mops and other cleaning devices and fluids used to clean up body fluid spills must be disinfected, properly dried, and stored. Syringes must be disposed of under Occupational Safety and Health Act (OSHA) standards and not to be accessible to children. ()

451. FIRST AID KIT.

A first aid kit must be readily available and contain materials sufficient to meet a child's medical needs until other medical treatment is obtained. The contents, location, and use of first aid kits must be reviewed annually with all staff. The content of the kits must be inventoried and restocked as needed. ()

452. NUTRITION.

Children must be provided daily three (3) nutritionally balanced meals in appropriate intervals and in amounts appropriate to their size and age. A licensed nutrition or dietitian professional must approve menus annually. The current menu must be readily available, and any change or substitution noted on the menu. Menus must be maintained on file for sixty (60) days. Accommodations must be made to a child with special medical or religious dietary needs. ()

453. ANIMALS AND PETS.

Program animals must be free from disease and cared for in a safe and clean manner. Visiting and program dogs will be vaccinated against rabies with documentation kept on file. ()

454. TOBACCO PRODUCTS, ALCOHOL, AND ILLEGAL DRUGS.

Use of tobacco, nicotine, vaping products, alcohol, and illegal drugs is prohibited by children, staff, volunteers, visitors, or contractors in any building used to house children, in the presence of children, or in vehicles used to transport children. ()

455. TRANSPORTING CHILDREN.

01. Vehicle. Transportation of children must be in a vehicle that is: ()

a. Properly registered; ()

b. Covered by insurance for personal injury and liability; ()

c. Driven by a person with a valid driver's license for the type of vehicle; ()

d. Maintained in a clean and safe condition with documentation of maintenance; ()

e. Equipped with a red triangular reflector device for use in emergency; ()

f. Equipped with a first aid kit; and ()

g. Equipped with a fire extinguisher that is properly secured and not readily available to children.

02. Proper Seating of Children and Adults.

a. A child must ride in an age-appropriate vehicle restraint seat according to Title 49, Chapter 6, Idaho Code, properly secured, or if the child is large enough, in a vehicle-manufactured seat, and properly use the passenger restraint device. All vehicle restraints and car seats must meet the Idaho Department of Transportation recommendations, be maintained in good operating condition, and not be expired.

b. Adults riding in the vehicle must occupy a manufactured seat and use the passenger restraint device.

456. CONTRABAND.

An organization must define prohibited contraband in a policy. Contraband found in the possession of children must be confiscated and secured. Local law enforcement must be notified if illegal contraband is confiscated. The organization will dispose of all contraband not confiscated by law enforcement and notice of such requirement will be provided in the organization's contraband policy.

457. SEARCHES.

If an organization conducts searches of children or the facility, it must have and follow policies and procedures. Searches must be completed in the least intrusive manner possible for the type of search being conducted. All contraband will be disposed of under the contraband policy. The policies and procedures require the following:

01. Training. Staff conducting any type of search must be trained on organization policy and procedures related to searches with documentation of training.

02. Pat Down Searches. Pat down searches of children may only be conducted to discourage the introduction of contraband into the facility, or to promote the safety of staff and other children. Pat down searches must be conducted as follows:

a. The search is conducted in the presence of at least two (2) staff members;

b. The child is told they are about to be searched;

c. The child removes all outer clothing and empty all pockets;

d. The staff pats the clothing of the child using only enough contact to conduct an appropriate search;

e. If the staff detects anything unusual, the child is asked to identify the item and appropriate steps taken to remove the item for inspection;

f. If the child refuses to comply, the chief administrator is notified immediately and is responsible to resolve the matter; and

g. All searches of children are documented in writing.

03. Strip and Body Cavity Searches are Prohibited.

458. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.

01. Documentation. An organization must explain the policy to the child considering their age and level of understanding. The parents or guardians and child will sign the policy acknowledging receipt.

02. Behavior Management. An organization must have and follow a behavior management and discipline policy for children that identifies appropriate and specific methods and ensures that these methods are positive and consistent. Individualized behavior management must be based on an assessment of the child's needs,

stage of development, and behavior to promote self-control, self-direction, self-esteem, and an acceptable pattern of social behavior appropriate to the child's age and development level. The policy must include the concept and application of least-restrictive effective treatment and positive reinforcements and prohibit the following: ()

- a. Physical force, except for physical restraint intervention; ()
- b. Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting, kicking, shaking, pulling hair, pinching skin, twisting an arm or leg in a way that would cause pain or injury, kneeling or sitting on the chest, placing a choke hold, bending back a finger, and shoving or pushing a child into the wall, floor, or other stationary object; ()
- c. Cruel and unusual physical exercise, including forcing the child to take an uncomfortable position; ()
- d. Verbal abuse, ridicule, humiliation, profanity, and other forms of degradation directed at a child or a child's family; ()
- e. Confinement in an area except an area approved by the Department for confinement of a child as provided under these rules; ()
- f. Withholding of necessary food, clothing, bedding, rest, toilet use, bathing facilities, and entrance to the facility; ()
- g. Denial of visits or communication with the child's family, except as specified in the child's service plan or court order; ()
- h. Denial of necessary educational, medical, counseling, and social services; ()
- i. Disciplining a group of children or another child for the actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which group discipline is allowed, and the discipline is supervised directly by staff; ()
- j. The placing of anything in or on a child's mouth; ()
- k. A physical work assignment that produces unreasonable discomfort; ()
- l. Requiring cold showers or otherwise using water as a form of behavior management; ()
- m. Requiring an individual to remain silent for long periods for the purpose of behavior management; ()
- n. Extensive withholding of emotional response or stimulation; ()
- o. Exploitation which includes, but is not limited to: ()
 - i. Using a child's property without their consent or using a child's property in a way that is contrary to their best interests, such as expending a child's funds for the benefit of another; or ()
 - ii. Accepting gifts in exchange for preferential treatment of a child or in exchange for services that the facility is already obliged to provide to the child. ()
- p. Failure to provide adequate supervision, including situations where the facility's employee or volunteer is asleep or ill on the job, or is impaired due to the use of alcohol or drugs; and ()
- q. Failure to provide care and treatment as prescribed by the child's services, program, or service plan. ()

459. TIME-OUT.

An organization must have and follow policies and procedures governing the appropriate use of staff directed time-out as follows: ()

01. Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity. ()

02. Children Under Six Years. For children under six (6) years old, the period for time-out is not to exceed one (1) minute for each year of the child's age and is used as a supplement to, but not a substitute for, other developmentally appropriate positive methods of behavior management. ()

03. Children Six Years or Older. For children six (6) years old and older the time duration cannot exceed sixty (60) consecutive minutes. ()

04. Prohibited Locations. The time-out cannot be in a closet, bathroom, unfinished basement, or attic, and cannot be in a locked area or box. ()

05. Documentation. A description in sufficient detail to provide a clear understanding of the incident that resulted in the child being placed in time-out, and the staff's attempts to help the child avoid time-out. ()

06. Observations. A staff is designated to be responsible for visually observing the child at random intervals not to exceed fifteen (15) minutes. ()

07. Reintroduction to the Group. The child is reintroduced to the group in a sensitive and nonpunitive manner as soon as control is regained. ()

08. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a review is conducted to determine the suitability of the child remaining in the facility, whether modifications to the child's service plan are warranted, or whether staff need additional training in alternative therapeutic behavior management techniques and appropriate action taken is based on the findings of the review. ()

460. SECLUSION.

Seclusion rooms must be equipped with break-resistant windows, and a mirror or camera that allows for full observation of the room. Rooms used for seclusion must be inspected and approved by a fire inspector annually. If an organization uses seclusion there must be policies and procedures, which include: ()

01. Seclusion. Seclusion will not be used as punishment or to substitute for other developmentally appropriate positive methods of behavior management. Seclusion may only be used as a means of intervention when the child's behavior is so violent or disruptive that it presents a high risk of physical or emotional harm to self or others, and less restrictive and less punitive interventions have been applied without success. ()

02. Time Needed. Seclusion must be used only for the time needed to change the behavior compelling it. ()

03. Seclusion Duration. For children under six (6) years old, the period is not to exceed one (1) minute for each year of the child's age and is used as a supplement to, not a substitute for, other developmentally appropriate positive methods of behavior management. For children six (6) years old and older the time duration cannot exceed sixty (60) consecutive minutes. ()

04. Restrictions on Seclusion. Seclusion must not be in a box, closet, bathroom, unfinished basement, or attic. Except for a licensing-approved bedroom, a seclusion room cannot be used as a sleeping room, and temporary beds or mattresses in these areas are not allowed. ()

05. Staff Supervision. A staff is designated to be responsible for visually observing the child at random intervals, which are not to exceed fifteen (15) minutes throughout the period of seclusion, and must be recorded in a log. ()

06. Supervisory Approval. Supervisory approval is required when the total seclusion time for one (1) child exceeds three (3) hours in a twenty-four (24) hour period, or more than four (4) separate seclusion incidents in a twenty-four (24) hour period. ()

07. Documentation. Each seclusion must be documented in writing and include the child's name, a description in sufficient details of the incident that resulted in the child being placed in seclusion, staff's attempts to help the child avoid seclusion, the date, start and end time of the seclusion, and the staff assigning the seclusion. ()

08. Reintroduction. The child is reintroduced to the group in a sensitive and nonpunitive manner as soon as they can participate appropriately. ()

09. Review. If there are more than five (5) seclusions for a child in a twenty-four (24) hour period, there must be a documented review. The review is to determine whether modifications to the child's service plan are warranted or whether staff needs additional training in alternative therapeutic behavior management techniques or disciplinary action. Appropriate action must be taken based on the findings of the review. ()

461. – 465. (RESERVED)

NONACCREDITED CHILDREN'S RESIDENTIAL SCHOOLS
Sections 466 – 499

466. STAFF RATIOS REQUIRED.

Nonaccredited children's residential schools must have at least one (1) staff member on duty and one (1) on-call and available within (10) minutes for every twenty-five (25) children or less. During normal sleeping hours, children in each sleeping room will be under close supervision and within easy call of a staff member. ()

467. CHILD'S RECORD.

The school must maintain a record on each child with the following: ()

01. Child's Full Name. ()

02. Birth Date. ()

03. Gender. ()

04. Height, Weight, Hair and Eye Colors, Race, and Identifying Marks. ()

05. Name, Address and Phone Number of Responsible Parent, Guardian, or Legal Custodian. ()

06. Documentation of Authority to Accept and Care for Child. ()

07. Medical Care Authorizations. ()

08. School Reports Including Grades and Adjustment. ()

09. Reason for Referral or Placement. ()

10. Special Considerations and Needs. ()

468. – 499. (RESERVED)

OUTDOOR PROGRAMS
Sections 500 – 599

500. BASE CAMP REQUIREMENTS.

01. Base Camp. An outdoor program must have a base camp or field office in Idaho, hereafter referred to as a "base camp." A base camp must: ()

a. Be staffed and monitored twenty-four (24) hours a day when there are children in the base camp or on expeditions; ()

b. Have current staff personnel files; ()

c. Have a current list of the names of staff and children in each field group; ()

d. Have a master map of all activity areas used by the program; ()

e. Have copies of each group's expeditionary route with its schedule and itinerary; ()

f. Maintain current logs of all communications with each field group away from the base camp; and ()

g. Have an emergency response plan developed by the organization and updated annually. ()

02. Proof of Compliance. An outdoor program that operates in Idaho must comply with federal, state, and local regulations and maintain proof of compliance at the base camp. ()

501. HIGH ADVENTURE REQUIREMENTS.

01. High Adventure Activities Include the Following: ()

a. Target sports; ()

b. Aquatics; ()

c. Hiking; ()

d. Adventure challenge courses; ()

e. Climbing and rappelling; ()

f. Winter camping; ()

g. Soloing; ()

h. Spelunking; ()

i. Expeditioning; ()

j. Swimming in a river, stream, lake, or pond; ()

k. Whitewater activities; and ()

l. Animal-related activities. ()

02. High Adventure Activity Policies and Procedures. For the high adventure activities and for any activity identified by the outdoor program or the Department as a high adventure activity, there must be a policies and procedures to be followed that includes: ()

a. Training, experience, and qualifications for leader and staff; ()

- b. Specific staff-to-participant ratios appropriate to the activity; ()
- c. Classification and limitations for each child's participation; ()
- d. Arrangement, maintenance, and inspection of the activity area; ()
- e. Appropriate equipment and the inspection and maintenance of the equipment; and ()
- f. Safety precautions to reduce the possibility of an accident or injury. ()

03. High Adventure Activities Leader. An activity leader who conducts high adventure activities must be at least twenty-one (21) years old and have documented training and experience in conducting the activity. ()

502. STAFF QUALIFICATIONS FOR OUTDOOR PROGRAMS.

Staff, interns, and volunteers must complete a background check as required by IDAPA 16.05.06, "Criminal History and Background Checks." Outdoor programs must have the following staff: ()

01. Chief Administrator. An outdoor program must have a chief administrator who is primarily responsible for ensuring that the program complies with applicable licensing rules and that staff are familiar with all program policies and procedures. The chief administrator may also function as the field director. In addition to qualifications in Section 213 of these rules, the chief administrator must also: ()

- a. Be at least twenty-five (25) years old; and ()
- b. Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience. ()

02. Field Director. An outdoor program must have a field director who is primarily responsible for the quality of the field activities, coordinates field operation, supervises direct care staff, and manages the field office. The field director is responsible for compliance with applicable licensing rules and ensures that staff are familiar with all program policies and procedures, and must: ()

- a. Be at least twenty-five (25) years old; ()
- b. Have at least thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience; ()
- c. Have at least forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in their personnel file; and ()
- d. Be certified to provide CPR and first aid. ()

03. Senior Field Staff. An outdoor program must have a senior field staff working directly with each group of program participants, and must: ()

- a. Be at least twenty-one (21) years old; ()
- b. Have an associate degree or high school diploma or equivalent and thirty (30) semester hours or forty-five (45) quarter hours of education and training, or comparable experience and training, in a field related to recreation and adventure activities; ()
- c. Have forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in their personnel file; and ()
- d. Be certified to provide CPR and first aid. ()

- 04. Field Staff.** Must: ()
- a. Be at least twenty-one (21) years old; ()
 - b. Have a high school diploma or equivalent; and ()
 - c. Be certified to provide CPR and first aid. ()
- 05. Multidisciplinary Team.** An outdoor program must have a multidisciplinary staff or program consultants who have knowledge of the physical and emotional demands of the program and are available to program participants upon the recommendation of the field director or senior field staff. The team must consist of: ()
- a. A licensed physician; and ()
 - b. A licensed treatment professional including either a licensed psychologist, certified social worker, marriage and family counselor, or professional counselor. ()
- 06. Each Intern.** Must: ()
- a. Be in a learning program to meet personal educational goals; ()
 - b. Be at least eighteen (18) years old; ()
 - c. Have a high school diploma or its equivalent; and ()
 - d. Be under the supervision of a licensed therapist if they are in a clinical internship pursuing a professional degree or license. ()
- 07. Each Volunteer.** Must: ()
- a. Be at least eighteen (18) years old; and ()
 - b. Be under the direct, constant supervision of qualified staff. ()
- 08. Staff Health Requirements.** ()
- a. Prior to engaging in any field activities with children, staff, interns, and volunteers must have a written statement from a licensed physician, physician's assistant, or nurse practitioner verifying they are physically fit to perform the duties of the job. ()
 - b. A new, written physician's statement must be obtained every three (3) years. The medical professional who provides the written statement must be given a form to use that clearly describes the physical demands for the job and the environmental conditions the person being evaluated is required to work in. ()
 - c. The outdoor program must review the form and maintain it in the individual's personnel file.()
- 503. SKILLS AND TRAINING.**
Skills and training for each staff, intern, and volunteer must be documented and kept on file at the base camp. ()
- 01. Skills.** Each staff, intern, and volunteer must demonstrate specific skills, prior to assuming field supervision. The skill assessment procedures must be approved, and results of the assessment documented. ()
 - 02. Training.** Chief administrator, field director, senior field staff, field staff, volunteers, and interns must have trainings that address deficiencies identified in the skills assessment. The curriculum will include: ()
 - a. Four (4) days of practicum field training; ()

- b. Supervision of program participants; ()
- c. Water, food, shelter procurement, preparation, and conservation; ()
- d. Low-impact wilderness expedition and environmental conservation skills and procedures; ()
- e. Child management including containment control, safety, conflict resolution, and behavior management; ()
- f. Instruction in safety procedures and safe equipment use of fuel, fire, and life protection; ()
- g. Sanitation procedures related to food, water, and waste; ()
- h. Special instruction for individuals who conduct and supervise high adventure activities; ()
- i. Wilderness medicine, including health issues related to acclimation, exposure to the environment, and environmental elements; ()
- j. First aid kit contents and use; ()
- k. Navigation skills including map and compass use, and Global Positioning System (GPS); ()
- l. Local environmental precautions, including terrain, weather, insects, poisonous plants, wildlife, and proper response to adverse situations; ()
- m. Report writing, including development and maintenance of logs and journals; ()
- n. Federal, state, and local regulations including the Department, Idaho State Department of Fish and Game, Idaho Outfitters and Guides, and state and federal land use agencies; and ()
- o. Ongoing training for direct care staff to upgrade their skills, including mandatory training to maintain skills, certifications, and licenses. ()

504. STAFF RATIOS AND GROUP SIZE.

01. Staff Ratio. Each group of children must have one (1) staff for every four (4) children. Where there are four (4) children or less there must be at least two (2) staff. ()

02. Interns and Volunteers. Interns and volunteers must never be counted in the staff ratio and never have sole responsibility to supervise the child. ()

505. ALCOHOL OR CONTROLLED SUBSTANCES PROHIBITED.

Staff, interns, and volunteers engaging in field activities with children are prohibited from using alcohol or controlled substances, or any other substance that impairs their ability to function and ensure the health and safety of the children in the program. ()

506. – 514. (RESERVED)

515. ASSESSMENTS.

01. Preadmission Assessment. Preadmission assessments must be done for each child by a qualified treatment professional familiar with the outdoor program prior to enrollment. This must include a review of the child's social and psychological history. ()

02. Subsequent Assessments. Subsequent assessments must be done before the child leaves for the field portion away from the main base of operations. The assessment must include: ()

- a. An interview with the child by the senior field staff assigned to the child's field experience; and ()
 - b. A review of the child's health history and physical examination by a medically trained field staff assigned to the child's field experience. ()
- 03. Psychological Problems.** For a child with a history of psychological problems, a psychological evaluation must be obtained and reviewed by the multidisciplinary team prior to the child's entrance into the field portion. ()

516. PHYSICAL EXAMINATION.

A child must have a physical examination within thirty (30) days prior to entrance into the outdoor program. ()

01. Physical Examination Requirements. The result of the physical exam must be recorded on a standard form provided by the outdoor program. The form must clearly document the type and extent of physical activity in which the child will be engaged and completed by a licensed physician, physician's assistant, or nurse practitioner, who signs the form, and includes: ()

- a. A urinalysis; ()
- b. A pregnancy test for each female participant; ()
- c. A physical assessment to determine fitness given the climate and temperature in which the child will be participating, and the child's age, weight, and physical condition; and ()
- d. A determination whether detoxification is indicated prior to entrance into the field portion of the program. ()

02. Prior Physical Examination. A physical examination of a child who is coming into an outdoor program directly from a children's residential care facility is acceptable provided the physical examination is current, occurred prior to entrance into the field, and meets the criteria in Subsection 516.01. ()

03. Medical Special Needs. If a child is currently taking or has been taking prescribed medication within the past six (6) months prior to placement, a notation must be made on the physical examination form by the medical professional approves the child's participation in an outdoor, high impact environment. The physical examination will include a description of any possible special needs due to the use of medication in said environment. ()

04. Physical Examination Availability. The physical examination form must be maintained at the base camp and a copy carried by staff in a waterproof container when the child is away from the base camp. The physical examination form must be maintained in a manner that assures the confidentiality of all medical and identifying information. ()

517. SERVICE PLANS.

An outdoor program must develop and follow a written service plan for a child admitted. ()

01. Initial Service Plan. Must be developed and recorded in the child's record within thirty (30) days after admission with the following: ()

- a. Identify the needs of the child and family, and provide goals and a time frame to achieve the goals; ()
- b. Services the organization will provide to assure the safety, health, and wellbeing of the child;()
- c. Criteria for discharge and projected discharge date; ()

d. Demonstrate the service plan was developed with participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation if they are incapable of understanding the purpose of the planned services; and ()

e. Identify the persons responsible for coordinating and implementing the child's and family's treatment goals. ()

02. Updated Service Plan. A service plan must be updated every ninety (90) days and must: ()

a. Document services the organization will provide to assure the safety, health, and wellbeing of the child; ()

b. Document progress towards achieving the goals in the service plan; ()

c. Demonstrate the service plan was developed with participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation if they are incapable of understanding the purpose of the planned services. ()

518. DISCHARGE SUMMARY.

A discharge summary must be written within seven (7) days of discharge, and include: ()

01. Date of and Reason for Discharge. ()

02. Physical, Emotional, Medical, and Educational Needs of Child. ()

03. Recommendations for Treatment. ()

04. Documentation of Disrupted Placements, Assessed Causes, and Any Corrections. ()

519. CONTINUED CARE.

Continued care is permitted under the Idaho Child Care Licensing Reform Act, Sections 39-1202 and 39-1213, Idaho Code, for individuals eighteen (18) to twenty-one (21) years old. Individuals who are in the care of a licensed outdoor program prior to turning eighteen (18) years old may remain in the program for up to ninety (90) days after their eighteenth birthday, or up to the age of twenty-one (21) if necessary to complete a treatment program or school educational program currently attended by the individual. ()

520. DOCUMENTATION REQUIREMENTS FOR CONTINUED CARE.

Prior to accepting an individual into continued care the following is required: ()

01. Voluntary Agreement. A voluntary agreement to remain in the program signed by the person turning eighteen (18), or a copy of a court order authorizing continued placement after the individual's eighteenth birthday. ()

02. Assessment for Others Safety. An assessment to assure that an individual does not jeopardize the health, safety, and well-being of the children in care of the organization. ()

03. Additional Continued Care Plans. A plan that prohibits individuals from sharing a bedroom or other sleeping rooms with a child. ()

04. Documentation of Care Prior to Eighteenth Birthday. Documentation verifying the individual was in the care of the organization prior to their eighteenth birthday. ()

05. Documentation of Need for Continued Care. Documentation verifying the individual needs to remain to complete treatment, education, or other similar needs. ()

521. AGE REQUIREMENTS.

01. Age. A child must be at least eleven (11) years old and less than eighteen (18) years old unless the individual qualifies for continued care. ()

02. Grouping. A licensed treatment professional familiar with the outdoor program must determine whether children eleven (11) years old through thirteen (13) years old are to be placed in a younger program group or in an older program group. The decision must be based upon the child's needs and level of maturity, both physical and mental. The basis for the decision must be documented in the child's record. ()

522. EXPEDITIONS.

Expeditions include any excursion taking children away from the base camp. ()

01. Description. There must be an approved written description of the expedition. The expedition must not expose children to unreasonable risk. ()

02. Group Size. The number of expedition participants must not exceed fifteen (15) children. ()

03. Wilderness First Responder (WFR). At least one (1) staff member per expedition group must have a current WFR Certificate. ()

04. Global Positioning System (GPS). Each expedition group must be equipped with a GPS system. ()

05. Staff Briefing. Staff must be briefed prior to any expedition. The briefing must include: ()

a. The expedition route, terrain, time schedule, weather forecast, and any potential hazards; ()

b. Any procedures unique to that expedition; and ()

c. Participant backgrounds and any potential problems. ()

06. Expedition Evaluations. Each expedition must be evaluated once during a calendar week, either in person by a field director or as detailed in the organization's approved policies and procedures. If the expedition is longer than three (3) weeks, onsite visits by a field director must occur every three (3) weeks. ()

07. Staff Debriefing. Staff must be debriefed after an expedition. ()

08. Participant Debriefing. Children must be debriefed after an expedition. The debriefing must include a written summary of the child's participation and progress and be retained in the child's record. ()

09. Expedition Summary. Results of the evaluation of the conditions of the children, interactions of children and staff, briefings, debriefings, and compliance with program policies and procedures must be summarized and documented. ()

523. SAFETY.

Each outdoor program must have appropriate safety procedures and equipment. ()

01. Environmental Hazards. Each program participant must have instruction on environmental hazards and precautions. ()

02. First Aid Kit. There must be a first aid kit with sufficient supplies. The first aid kit must: ()

a. Meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used; ()

b. Be reviewed with new staff for contents and use; ()

c. Be reviewed at least annually with all staff for contents and use; and ()

- d. Be inventoried after each expedition and restocked as needed. ()

524. COMMUNICATIONS.

- 01. Support System.** There must be multiple reliable communication systems. ()

02. Requirements. There must be daily communication between each field group and the base camp unless alternative arrangements have been made and documented in a communications log maintained at the base camp. Absence of communication must never exceed seventy-two (72) hours. ()

03. Emergencies. The base camp support personnel must have immediate access to emergency telephone numbers, contact personnel, and procedures for an emergency evacuation or field incident requiring emergency medical support. ()

525. EMERGENCY PLAN.

An outdoor program must have and follow a written emergency plan and procedures for evacuations, disasters, medical emergencies, hostage situations, casualties, and missing children. ()

- 01. Plan Must Include:** ()

- a. Designation of authority and staff assignments; ()
- b. Transportation and relocation of program participants when necessary; ()
- c. Instruction to all participants on how to respond to an emergency; ()
- d. Notification regarding the nature of the emergency and an accounting for each participant's location and status; ()
- e. Supervision of program participants after an evacuation or a relocation; and ()
- f. Arrangements for medical care and notification of a child's physician and identified parent or guardian. ()

- 02. Emergency Drills Must Be Conducted and Recorded Annually.** ()

526. EXPEDITION AND HIKING LIMIT REQUIREMENTS.

01. Physical Capability. Hiking must not exceed the physical capability of the weakest member of the group. ()

02. Maximum Temperature. There must be no hiking when the temperature is above ninety-five (95) degrees Fahrenheit. ()

03. Inability or Refusal to Hike. When a child cannot or refuses to hike, the group cannot continue hiking unless it is necessary for safety reasons, and a contingency plan, based on approved policies and procedures, must be used. The contingency plan must ensure there is staff coverage for each group, if the group is split, and that communication between the groups is maintained. ()

04. Maps and Itinerary. Copies of map routes and anticipated schedules, including arrival and departure times, must be maintained by the field staff and base camp when a group is away from the base camp. ()

05. Acclimation to Environment. Staff must closely monitor children for acclimation to the temperature, climate, altitude, environment, and situation. ()

- 06. Log.** There must be a common written log that is signed and dated by the participating staff

immediately following an expedition. The log must contain information on health problems, accidents, injuries, medications used, behavioral problems, and unusual occurrences and be recorded with any corrections initialed and dated. ()

527. WATER REQUIREMENTS.

01. Water. Children must have access to potable water while hiking and the program must: ()

a. Provide each child with six (6) quarts of potable water a day, unless a child's weight exceeds one hundred fifty (150) pounds, then one (1) additional quart of potable water will be provided for every twenty-five (25) pounds of body weight over one hundred fifty (150) pounds; and ()

b. Encourage each child to consume at least three (3) quarts of potable water per day. ()

02. Water for Cooling. When the temperature is eighty (80) degrees Fahrenheit or higher, adequate water must be available for coating each child's body for the purpose of cooling when needed. ()

03. Water Caches. When water caches are used, each water cache must be placed at predetermined sites prior to the day the group leaves the camp. Field staff must verify the water cache locations before the group leaves the base camp each day. ()

04. Aerial Water Drops. An expedition group must not depend on aerial drops for its water supply and be used only in an emergency. ()

05. Water From a Natural Source. Water from a natural source used for drinking or cooking must be treated to eliminate health hazards. ()

06. Electrolyte Replacement. Each group must have a supply of electrolyte replacement, with quantities to be determined by group size and environmental conditions. ()

528. NUTRITIONAL AND SANITARY REQUIREMENTS.

01. Menu. There must be a written menu approved annually by a professional nutritionist or dietitian with knowledge of program activity levels and environmental factors. The menu will list the necessary or recommended food supplies and caloric intake for each group. The current menu must be available, and any change or substitution noted on the menu. Menus must be maintained on file for sixty (60) days. ()

02. Food. Each child must be provided enough food and calories based on the approved menu that includes fresh fruit and vegetables at least twice a week. ()

03. Special Needs. The menu must take into consideration a child's special nutritional needs, including food allergies or religious restrictions. ()

04. Fasting. There must be no imposed food fasting. ()

05. Cleansing of Hands. Soap and water, or other methods to disinfect hands, is provided and encouraged after each latrine use. Cleansing of hands is required prior to food preparation. ()

529. (RESERVED)

530. HEALTH CARE REQUIREMENTS.

01. First Aid. First aid treatment will be provided in as prompt a manner as the location and circumstances allow. ()

02. Administration and Assistance. Staff who administer or assist with self-administration of medications will be trained by a medical professional. ()

03. Documentation. Complaints or reports by a child of illness and injuries will be recorded in the daily log along with any treatment provided. ()

04. Negative Consequences. There will be no negative consequences imposed on a child for reporting an injury or illness, or for requesting to see a health care professional. ()

05. Daily Physical Assessment. Children's hydration, skin condition, extremities, and general physical condition will be evaluated and recorded by field staff in the daily log. ()

06. Weekly Physical Assessment. At least every seven (7) days, each child's physical condition will be assessed by a WFR, an EMT, or a medical professional. The results of the assessment will be recorded in the daily log and include: ()

- a. Blood pressure; ()
- b. Heart rate; ()
- c. Condition of extremities and skin; ()
- d. Hydration level; ()
- e. Allergies, if any; ()
- f. General physical condition; and ()
- g. Provision of appropriate medical treatment if needed. ()

531. MEDICATION.

An outdoor program must have and follow policies and procedures on the storage and administration, or assistance with medication, and comply with IDAPA 24.34.01, "Rules of the Idaho Board of Nursing." The policies must address the following: ()

01. Medication Storage. Prescription and over-the-counter medication will be stored under lock and key and safeguarded from children. For medications taken on field outings, all medication will be in the possession of a staff member qualified to administer or assist with medications. The medication must be in the original pharmacy-dispensed container, in original over-the-counter container, or placed in a unit container by a medical professional. ()

02. Administration and Assistance. Staff who administer or assist with self-administration of medications will be trained by a medical professional. ()

03. Psychotropic Medication. Prohibit the administration of psychotropic medications: ()

- a. Unless a medical professional determines that the medication is clinically indicated; and ()
- b. For disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services. ()

04. Documentation for Prescription Medication. Document all prescription medication issued by a medical professional's order to include dosage to be given, and the following: ()

- a. The child's name; ()
- b. The date and time; ()
- c. The dosage given and whether the child did not take the medication; and ()

d. The person who administered or assisted in self-administration of the medication. ()

05. Documentation for Nonprescription Medication. Documentation for all over-the-counter medication must include: ()

a. The child's name; ()

b. The date and time; ()

c. The dosage given whether the child did not take the medication; ()

d. The person who administered or assisted in self-administration of the medication; ()

e. The reason the medication was given. Over-the-counter medication will only be given according to the package instructions unless there is a child-specific valid order by a medical professional stating the medication is to be used for reasons other than those stated on the packaging; and ()

f. The effects of the medication. ()

06. Medication Changes. Document medications prescribed for the child while in care including the date prescribed and the prescribing physician. Prescribed medications must not be stopped or changed without consulting with a medical professional. Documentation of the consultation must include: ()

a. Name of the child, the medical professional, and staff consulting with the medical professional; ()

b. Date of the consultation; ()

c. Specific details of the change including dosage, administration time, and instructions; and ()

d. Reasons for the change. ()

07. Disposal of Unused Medication. Dispose of all unused and expired medication so they are not available to children. ()

532. PARTICIPANT CLOTHING, EQUIPMENT, AND SUPPLIES.

Each program participant must have clothing, equipment, and supplies appropriate for the types of activities and for the weather conditions likely to be encountered. ()

01. Clothing, Equipment, and Supplies Requirements: ()

a. Sunscreen; ()

b. Insect repellent; ()

c. A commercially available backpack or the materials to construct a safe backpack or bedroll; ()

d. Personal hygiene items necessary for cleansing; ()

e. Appropriate feminine hygiene supplies; ()

f. Wool blankets or an appropriate sleeping bag and a tarp or poncho when the average nighttime temperature is expected to be forty (40) degrees Fahrenheit or higher; ()

g. Shelter, appropriate sleeping bag, and ground pad when the average nighttime temperature is expected to be thirty-nine (39) degrees Fahrenheit or lower; ()

- h.** Clothing appropriate for temperature changes generally expected for the area; ()
- i.** For each child, a clean change of clothing at least once a week or an opportunity to wash their clothes at least once a week; and ()
- j.** For each child, clean undergarments and a means to clean their body at least twice a week. Additional clean undergarments may be needed for health or sanitary reasons. ()

02. Denial of Clothing, Equipment, and Supplies. Appropriate clothing, equipment, and supplies must not be removed, denied, or made unavailable for any reason. ()

533. CONTRABAND.
An outdoor program must define prohibited contraband in a policy. ()

01. Confiscation. Contraband found in the possession of children must be confiscated and secured in a location inaccessible to children. ()

02. Law Enforcement Notification. Local law enforcement must be notified when illegal contraband is confiscated. ()

03. Disposal. The outdoor program will dispose of all contraband not confiscated by law enforcement, under the program's contraband policy. When contraband is disposed of, this must be witnessed by at least one (1) other staff member and the disposal documented in the child's record. ()

534. SEARCHES.
If an outdoor program conducts searches of children, it must have and follow policies and procedures. Searches must be completed in the least intrusive manner possible for the type of search being conducted. All searches must be documented, including the reasons for the search, the persons conducting the search, and any results. The policies and procedures must include: ()

01. Pat Down Searches. May only be conducted to discourage the introduction of contraband or to promote the safety of staff and other children. Pat down searches must be conducted as follows: ()

- a.** The search is conducted in the presence of at least two (2) staff members; ()
- b.** The child will be told they are about to be searched; ()
- c.** The child will remove all outer clothing and empty all pockets; ()
- d.** The staff will pat the clothing of the child using only enough contact to conduct an appropriate search; ()
- e.** If the staff detects anything unusual, the child will be asked to identify the item and appropriate steps taken to remove the item for inspection; and ()
- f.** If the child refuses to comply, the chief administrator must be notified immediately and is responsible for resolving the matter. ()

02. Searches. All searches of children must be documented in writing. ()

03. Training. Staff conducting any type of search must be trained on organization policy and procedures related to searches with documentation of training. ()

04. Strip and Body Cavity Searches are Prohibited. ()

535. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.

An outdoor program must have and follow a behavioral management and discipline policy that identifies appropriate methods of behavioral management and ensures that any discipline is positive and consistent. Individual behavioral management must be based on an assessment of the child's needs, behavior, and stage of development with the goal of promoting self-control, self-direction, self-esteem, and an acceptable pattern of social behavior appropriate to the age and development level of the child. An organization must explain the policy to the child's age and development level. The parents or guardians and child will sign the policy acknowledging receipt. The policy must include the concept and application of least-restrictive effective treatment and positive reinforcement and prohibits the following:

- 01. **Physical Force.** Except for physical restraint intervention; ()
- 02. **Punishment.** Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting, kicking, shaking, pulling hair, pinching skin, twisting an arm or leg in a way that would cause pain or injury, kneeling or sitting on the chest, placing a choke hold, bending back a finger, and shoving or pushing a child into a stationary object; ()
- 03. **Covering of the Mouth.** The placement of anything in or over a child's mouth; ()
- 04. **Excessive Physical Demands.** Cruel physical exercise, prolonged positions, or work assignments that produce unreasonable discomfort; ()
- 05. **Verbal Abuse.** Ridicule, humiliation, profanity, and other forms of degradation directed at a child or a child's family; ()
- 06. **Restraints and Seclusion.** Locked seclusion, mechanical restraints, and alternative forms of restraints; ()
- 07. **Withholding of Items.** Withholding of necessary food, clothing, shelter, bedding, rest, medical care, and toilet use; ()
- 08. **Denials.** Denial of visits or communication with the child's family except as specified in the child's plan or court order; ()
- 09. **Group Discipline.** Disciplining a group of children or another child for the actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which group discipline is allowed, and the discipline is supervised directly by staff; ()
- 10. **Behavioral Management Using Water.** Requiring cold showers or otherwise using water as a form of behavior management; ()
- 11. **Extensive Periods of Silence.** Demanding an individual to remain silent for long periods for the purpose of behavior management; ()
- 12. **Extensive Withholding of Emotional Response or Stimulation.** ()
- 13. **Exploitation.** Includes the following: ()
 - a. Using a child's property without their consent or using a child's property in a way that is contrary to their best interests, such as expending a child's funds for the benefit of another; and ()
 - b. Accepting gifts in exchange for preferential treatment of a child or in exchange for services that the organization is already obliged to provide to the child. ()
- 14. **Failure to Provide Adequate Supervision.** Includes situations where the organization's employee or volunteer is asleep or ill on the job, or is impaired due to the use of alcohol or drugs; ()

15. Failure to Provide Care and Treatment. As prescribed by the child's services, program, or service plan. ()

536. TIME-OUT.

An outdoor program must have and follow policies and procedures governing the appropriate use of time-out that includes the following: ()

01. Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity. ()

02. Duration. Time duration cannot exceed sixty (60) consecutive minutes. ()

03. Observation. A staff is designated to be responsible for visually observing the child at random intervals at least every fifteen (15) minutes. ()

04. Documentation. A written description maintained in the child's file in sufficient detail to provide a clear understanding of the incident or behavior that resulted in the child being placed in time-out, staff's attempts to help the child avoid time-out, and observations by staff. ()

05. Reintroduction to the Group. The child is reintroduced to the group in a sensitive and nonpunitive manner as soon as control is regained. ()

06. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a review is conducted to determine the suitability of the child remaining in the program, and whether staff needs additional training in alternative therapeutic behavior management techniques. Appropriate action must be taken based on the findings of the review. ()

537. WORK.

Children may be given a nonvocational work assignment as a constructive experience, in compliance with child labor laws, that is age appropriate and within the child's capabilities. The primary purpose of work must not be to substitute for paid labor. ()

538. ANIMALS AND PETS.

Program animals must be free from disease and cared for in a safe and clean manner. Visiting and program dogs will be vaccinated against rabies and documentation kept on file. ()

539. TRANSPORTING CHILDREN.

01. Vehicle. Transportation of children must be in a vehicle that is: ()

a. Properly registered; ()

b. Insured for personal injury and liability; ()

c. Driven by a person with a valid driver's license for the type of vehicle; ()

d. Maintained in a safe condition with documented maintenance; ()

e. Equipped with a red triangle reflector device for use in an emergency; ()

f. Equipped with a first aid kit; and ()

g. Equipped with a fire extinguisher that is properly secured and not readily available to children. ()

02. Proper Seating of Children and Adults. The driver and all passengers must ride in a vehicle-manufactured seat and properly use a passenger restraint device. ()

540. FIREARMS.

Firearms are prohibited in outdoor programs.

()

541. – 550. (RESERVED)

**SOLO EXPERIENCES IN OUTDOOR PROGRAMS
Sections 551 – 559**

551. SOLO EXPERIENCES IN OUTDOOR PROGRAMS.

If an outdoor program conducts a solo component for children, they must have and follow policies and procedures. Every outdoor program that includes a solo component will include a written description of the solo component in the program description.

()

552. PLAN.

There must be a plan for the solo component, and an individual solo plan for each child. The plans must be documented and approved to ensure that the children are not exposed to unreasonable risks. The plans must include:

()

01. Individual Solo Plan. The goals, methods, techniques to be used, and time frames will be listed for each participant and each individual plan will be reviewed with the child and signed and dated by the child and the designated staff member.

()

02. Ability. There will be consideration of the maturity level, health, physical ability, and emotional state of the child.

()

03. Preparation. The child will be instructed on the solo experience, including expectations, restrictions, communication, environment, and emergency procedures.

()

04. Backup Plan. There will be documented instructions for a backup plan in case the child's plan does not work.

()

05. Responsible Staff. A designated staff member will be responsible for coordination and implementation of the plan.

()

553. SOLO SITES.

Staff must be familiar with the site chosen to conduct solos. The following requirements apply:

()

01. Pre-Site Investigation. A pre-site investigation will be conducted and mapped prior to the solo experience. The site will be checked at the time the child is placed to assure that no changes in the environment have taken place since the pre-site investigation that may put the child at risk.

()

02. Hazardous Conditions. Any hazardous conditions, including terrain, are to be considered prior to selecting a solo site, considering the age, physical, developmental, and psychological issues of the children in the solo experience.

()

03. Mapping and Site Coordinates. The selected site will be mapped and the site coordinates will be recorded. The map and the site coordinates will be maintained at the solo site and communicated to the base camp prior to leaving for the solo component.

()

04. Supplies. Arrangements will be made prior to the solo experience for medication, food, and water drop-offs if needed.

()

554. SUPERVISION.

Plans for supervision must be in place during the solo experience, and require:

()

01. Assigned Staff. The assignment of a specific staff member to be responsible for supervising each

solo participant. ()

02. Observation. A predetermined procedure for observation that always ensures the child's health, safety, and wellbeing, that includes: ()

a. Placing children at a distance from each other and the central staff site to allow for appropriate supervision and emergency communication; ()

b. Placing children requiring special attention closer to the central staff site; ()

c. Clearly defining physical boundaries and any other restrictions; ()

d. Instructing children to not participate in potentially dangerous activities; ()

e. Notification and check-in systems; ()

f. Visual checks; and ()

g. Checking the participant's emotional and physical condition daily. ()

555. EMERGENCY PROCEDURES.

In addition to the requirements under Section 525 of these rules, solo emergency plans must include: ()

01. Instruction. Instructing participants on the safety and emergency procedures, including evacuation routes. ()

02. Communication. Providing each participant with signaling capabilities, including a whistle, for emergency notification. ()

03. Participant Response. Instructing participants on how to respond if the emergency notification system is put into use, including each participant's requirement to check into the central staff site. ()

04. Check-In. Provide a check-in system should an emergency occur that includes notification to the base camp and an accounting of each participant's whereabouts and safety. ()

556. – 559. (RESERVED)

**STATIONARY OUTDOOR PROGRAMS
Sections 560 – 562**

560. STATIONARY OUTDOOR PROGRAMS.

An outdoor program that maintains a designated location for the housing of children is considered stationary and must be subject to additional fire, health, and safety standards. ()

561. FIRE SAFETY REQUIREMENTS.

A stationary outdoor camp must be inspected by a state certified fire inspector before being occupied and annually thereafter, with a copy of the inspection maintained. The inspection requires: ()

01. Fire Extinguishers. One (1) 2-A-10BC type fire extinguisher must be in each of the following locations: ()

a. On each floor in any building that houses children; ()

b. In any room where cooking or heating occurs; ()

c. In a group of tents within a seventy-five (75) foot travel distance; and ()

- d.** Each fire extinguisher will be inspected annually by a fire extinguisher service agency. ()
- 02. Smoke Detectors.** A smoke detector will be in buildings where children sleep. ()
- 03. Escape Routes.** At least two (2) escape routes from buildings where children sleep. ()
- 04. Flammable Liquids.** Flammable liquids will not be used to start fires, be stored in structures that house children, or be stored near ignition sources. If generators are used, they will only be refueled by staff when the generator is not running and is cool to the touch. ()
- 05. Electrical.** Wiring will be properly attached and fused to prevent overloads. ()

562. HEALTH SAFETY REQUIREMENTS.

A stationary outdoor camp must be inspected by the applicable Public Health District before being occupied and annually thereafter with a copy of the inspection maintained. The inspection requires: ()

- 01. Food.** Food is stored, prepared, and served in a manner that is protected from contamination. ()
- 02. Water Supply.** The water supply will be from a source that is accepted by the local health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of application and for annual renewal of such licenses. ()
- 03. Sewage Disposal.** Sewage will be disposed of through a public system, or in absence of a public system, in a manner approved by the local health authority under IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." ()

563. – 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.05.04 – DOMESTIC VIOLENCE COUNCIL GRANTS

DOCKET NO. 16-0504-2101 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 39-5209, 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.

In accordance with [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language. These rule changes also include language to allow the Council to take into account the demand and need for services in distributing grant funds throughout the state. In IDAPA 16.05.04, the chapter title is changing from “Idaho Council on Domestic Violence and Victim Assistance Grant Funding,” to “Domestic Violence Council Grants.”

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 3, 2022, Idaho Administrative Bulletin, [Vol. 22-8, pages 29 through 35](#).

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Heather Cunningham at (208) 332-1542.

DATED this 3rd day of October, 2022.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-5209, Idaho Code.

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

Virtual Public Hearing
Friday, August 12, 2022 10:00 a.m. (MT)
Join from the meeting link https://us06web.zoom.us/j/88108527349?pwd=VTltTU9sM1B4Y3pscmlEQTZ1SjhtUT09
Meeting ID: 881 0852 7349 Passcode: zHXh28
Find your local number: https://us06web.zoom.us/u/kdk2arovPx Meeting ID: 881 0852 7349 Passcode: 598101

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

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

In accordance with [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

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

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the November 3, 2021, Idaho Administrative Bulletin, (Vol. 21-11, p. 46), December 1, 2021, Idaho Administrative Bulletin, (Vol. 21-12, p. 20), February 2, 2022, Idaho Administrative Bulletin, (Vol. 22-2, p. 38), and the April 6, 2022, Idaho Administrative Bulletin, (Vol. 22-4, p. 28).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Heather Cunningham at (208) 332-1542.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2022.

DATED this 30th day of June, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 16-0504-2101

16.05.04 – DOMESTIC VIOLENCE COUNCIL GRANTS

000. LEGAL AUTHORITY.

Under Section 39-5209, Idaho Code, the Idaho Council on Domestic Violence and Victim Assistance is authorized to promulgate, adopt, and amend rules regarding applications and grants administered by the Council. ()

001. SCOPE.

These rules define the application process, eligibility determination, and other requirements for the grants administered by the Council. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

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

01. Council. The Idaho Council on Domestic Violence and Victim Assistance (ICDVVA). ()

02. Domestic Violence. Crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Idaho, or a family or household member. This definition also includes criminal or non-criminal acts constituting intimidation, control, coercion and coercive control, emotional and psychological abuse and behavior, expressive and psychological aggression, financial abuse, harassment, tormenting behavior, disturbing or alarming behavior, and additional acts. This definition applies to individuals and relationships as set forth in 45 CFR 1370.2. ()

03. Program Guidelines. Collectively, the applicable federal and state statutes, these rules, grant applications, application instructions and scoring rubrics published by the Council regarding grant opportunities, Council grant management manuals, Council service standards for funded programs, Council grant management policies and procedures, and written grant or subgrant agreements entered into with successful grant applicants, all of which will be enforced by the Council. ()

04. Regions. The (7) public health districts as defined in Section 39-408, Idaho Code. ()

05. Victim. A person who suffers direct or threatened physical, sexual, emotional, psychological, or financial harm either: ()

a. As a result of an act by someone else and the act causing harm is a crime under state or federal law;

or ()

b. As a result of an act by someone with whom they share a relationship as defined in Section 39-6303(1), (2), (3), and (6), Idaho Code. ()

011. -- 014. (RESERVED)

015. GENERAL GRANT PROGRAM REQUIREMENTS.

01. Application Procedure. All applicants must meet eligibility requirements specified in program guidelines for their application to be considered. Eligible applicants must submit a completed application to the Council and meet the requirements specified in program guidelines prior to the application deadline. ()

02. Review and Selection of Applications. All eligible grant applications will be reviewed, scored, and selected by the Council under the selection criteria specified in the program guidelines. All applicants will be notified of their application status in a reasonable timeframe after the application deadline. The Council may conduct on-site and remote evaluations and follow-up evaluations as specified in the program guidelines. ()

03. Written Agreements. All applicants selected for grant funding must enter into a written grant or subgrant agreement setting forth the terms of their grant. Procedures for payment are set forth in the agreement. Non-compliance with agreement provisions are grounds for non-payment or termination of the grant. ()

04. Reporting and Recordkeeping Requirements. The grantee must maintain accurate, current, and complete client, administrative, and fiscal records, including accurate records of the receipt, obligation, and disbursement of funds, under the requirements specified in the program guidelines. ()

05. Termination of Funding. The grantee may only use the grant funds in accordance with program guidelines. If at any time the Council becomes aware of a grantee's noncompliance with program guidelines, illegal use of grant funds or fraud, or criminal activity, the Council may terminate the agreement. The Council may require an audit of grant funds. The Council may further terminate a grant if the project loses viability or is unlikely to meet the intent of the original application. ()

016. GRANT AWARDS AND ELIGIBILITY.

01. State Domestic Violence Project Grants. To be eligible for a state domestic violence grant, a program must comply with the applicable requirements of Sections 39-5210 and 39-5211, Idaho Code, these rules, and any additional requirements in the grant application announcement from the Council. ()

02. Federal Family Violence and Services Act (FVPSA). To be eligible for a FVPSA grant, a program must comply with all the applicable sections of the Family Violence Prevention and Services Act, other federal rules and regulations, and any additional requirements in the grant application announcement from the Council. ()

03. Federal Victims of Crime Act (VOCA) Grant. To be eligible for a VOCA grant, a program must comply with all the applicable sections of the Victims of Crime Act, any other federal rules and regulations that apply, these rules, and any additional requirements listed in the grant application announcement from the Council. ()

04. State Offender Intervention Program Grants. The Council may offer and administer grant funds to offender intervention programs. ()

05. Tribes. All federally acknowledged tribes in the State of Idaho are eligible for Council funding. ()

06. Other Grants. The Council may administer other state or federal grants or funds, or both, within its authority under Section 39-5208, Idaho Code, under these rules, and within its discretion. ()

017. TIME FRAMES.

01. Grant Applications for Annual Grants from the Council. ()

a. When each funding opportunity becomes available, the Council will publish a “Grant Application Announcement” (GAA) on the Council website at icdv.idaho.gov. The GAA will specify the deadline for submission of proposals. In no event will the deadline be less than sixty (60) days from the date of the publication of the GAA. ()

b. The Council will comply with all other applicable state or federal laws requiring the publication of a GAA notice. ()

c. A copy of each GAA will also be sent to current grantees and to persons and organizations who have requested notification. Anyone requesting notification of solicitations of grant proposals must email their request to info@icdv.idaho.gov with “Grant Application Notice Request” in the subject line. ()

d. Applications for annual grants must be delivered as specified in the GAA, no later than the date and time specified therein. ()

02. Proposals or Supplemental Grants. Applications for supplemental grants may be submitted for consideration at any time during the effective period of a grant as specified in the program guidelines. ()

018. DISPOSITION OF APPLICATIONS.

The Council will grant or deny funding as specified below, and all applicants will be notified in writing as to the disposition of their application. ()

01. Applications. The Council will grant or deny funding for applications within ninety (90) days of the application deadline. ()

02. Supplemental Applications. Allocation of supplemental funding is made at the discretion of the Council, based upon the availability of funds. Need is determined by evaluating the best available data. ()

03. Late Applications. If funds remain after the Council’s consideration of all timely initial and renewal applications, applications for funding received after the deadline specified in any GAA may be acted upon at a regularly scheduled meeting of the Council. ()

019. EVALUATION OF APPLICATIONS.

Applications are evaluated according to the following criteria: ()

01. Threshold Factors. Before an application is evaluated and scored, an affirmative determination must be made that the application is complete and the applicant’s program meets the eligibility requirements under Section 016 of these rules. Ineligible projects will not be considered or approved. ()

02. Scoring of Applications. ()

a. Use of Rubric. When the GAA is released, the Council will specify the criteria to be used in evaluating the applications and the scoring rubric to be used. When the Council announces its funding decision for a project, the Council will include the applicant’s score. ()

b. Scoring. There will be two (2) Council members and two (2) Council staff responsible for evaluating and scoring each eligible application using the scoring rubric released with the application. Council members may not score applications from applicants within the region that they represent. ()

03. Evaluation Criteria. The specific criteria used by the Council may vary with each funding opportunity and will be based upon best available data regarding statewide and regional needs and federal program requirements. However, the criteria will generally include at least consideration of the following: ()

a. Compliance with federal and state grant requirements; ()

- b. Assessment of existing victim services in the community and demonstrated need for current and proposed services; ()
- c. Adequate training of employees and volunteers in trauma-informed care and the implementation of such care; ()
- d. Plans for expansion where service gaps exist, especially among underserved populations; ()
- e. Resourcefulness and efficiency of program; ()
- f. Stability of program and succession planning to ensure continuity of service delivery; ()
- g. Appropriate and responsible fiscal management of program; and ()
- h. Collaboration between and among programs. ()

020. PROJECT EVALUATIONS.

01. Initial Evaluation. Prior to the awarding of an initial grant, the Council is authorized to conduct an on-site evaluation of the program to ensure that the program is in substantial compliance with these rules and applicable program guidelines, and to determine the capability of the program to provide the services for which funding is requested. The program must provide for review of any and all client records, program records, financial statements, and other documents needed by the Council to make its determination, including any information that may have changed since the time the application was submitted. ()

02. Federally Required Monitoring. The Council will comply with all federal monitoring requirements, including the requirement to regularly monitor projects. The Council will evaluate projects at least every two (2) years. These evaluations may be conducted on-site or remotely. ()

03. Follow-Up Evaluations. In addition to any initial on-site evaluation, the Council is authorized, upon reasonable notice to the program, to conduct such on-site evaluations of the program: ()

- a. To determine continued compliance with these rules and the program guidelines and any other applicable requirements; or ()
- b. To determine the continued capability of the program to provide the services for which funding has been granted. ()

021. -- 029. (RESERVED)

030. DENIAL, SUSPENSION, OR TERMINATION OF GRANT.

01. Compliance Issues. A grant may be suspended pending investigation to determine compliance with these rules and the program guidelines. An application for a grant may be denied or a grant terminated if the program is not in compliance with these rules or the program guidelines. ()

02. Misconduct. In cases of criminal conduct within a funded program, the Council may suspend or terminate funding until the matter is resolved and the program is again in compliance with grant requirements. ()

03. Disincorporation. In the event a legal entity which is the recipient of a grant disincorporates, the Council must be informed in writing within twenty (20) days and the grant terminated. Grant funds for all but the portion of the fiscal year during which services required under the grant were performed must be recovered by the Council. Reallocation of remaining grant funds may be made by the Council to other eligible recipient(s). ()

04. Internal Take-Over. If there is a change in legal control and operation of any entity which is a

grant recipient, including substantial changes in the governing board, the Council must be notified in writing within twenty (20) days. The grant may continue in effect without interruption. ()

031. -- 099. (RESERVED)

STATE DOMESTIC VIOLENCE GRANTS
(Sections 100-199)

100. STATE DOMESTIC VIOLENCE PROJECT GRANTS.

01. Overview. Money may be granted to a program under the State Domestic Violence Project Grants, Sections 39-5201 through 39-5213, Idaho Code, and any applicable policies, rules, and regulations. ()

02. Distribution. The Council annually awards grants totaling no less than fifty-one percent (51%) of the funds collected under Section 39-5212, Idaho Code, during the last completed state fiscal year. On an annual basis, following determination by the Council of the total funds available for domestic violence grants, the Council will establish and announce the amount of funding available to eligible projects throughout the state. Grants will be awarded consistent with the requirements under Section 39-5212, Idaho Code. ()

a. At its discretion, the Council may award any domestic violence grant funds not obligated or expended during any grant period. ()

b. At its discretion, the Council may solicit proposals for specific types of programs or services to fill identified domestic violence shelter needs in any region. ()

101. -- 199. (RESERVED)

VICTIM ASSISTANCE GRANTS
(Sections 200-299)

200. VICTIMS OF CRIME ACT (VOCA) VICTIM ASSISTANCE GRANTS.

01. Overview. Money may be granted to a program under Victims of Crime Act of 1984, P.L. 98-473, Title II, Chapter XIV, 42 U.S.C. 10601, et seq (VOCA), and any applicable rules and regulations. ()

02. Distribution. On an annual basis, following the Council's receipt of a grant award letter from the U.S. Justice Department announcing the amount available for Idaho's victim assistance grant under VOCA, the Council will establish the amount of funding to be subgranted to qualifying projects. Determination of the actual percentage and amount of funds to be subgranted for the priority categories and any other categories, or for each region, or both, and for statewide projects will be based on best available data to the Council. ()

a. Allocations for Priority and Other Categories. The Council will allocate the federal crime victim assistance funds granted to Idaho to programs in compliance with applicable VOCA regulations. ()

b. Allocations for Service Areas. ()

i. The Council will subgrant at least five percent (5%) of the available amount to eligible programs in each of the seven (7) regions of the state and five percent (5%) to eligible programs offering statewide services; if there are not statewide programs with eligible applicants and acceptable applications, the Council will use discretion in allocating the statewide portion elsewhere. The Council has the discretion to allocate remaining funds (sixty percent (60%)) throughout the state where needed. In all decisions regarding fund allocation, the Council will consider the best available data, including the type of services offered by each applicant and the types of services available or lacking in each region, and endeavor to fund programs in each region that ensure services to meet identified needs of victims are available. ()

ii. At its discretion, the Council may solicit proposals for specific types of programs or services to fill identified victim service gaps in any region. ()

c. Unexpended Funds. Any victim assistance grant funds not obligated or expended during any grant period will be apportioned by the Council at its discretion, within the established federal limits governing use of the funds. In the event that a program is unable to use all of its grant or subgrant within the time limits of the agreement, the Council has discretion to work with the program to reallocate funds to other programs. ()

201. -- 299. (RESERVED)

FAMILY VIOLENCE GRANTS
(Sections 300-399)

300. FAMILY VIOLENCE PREVENTION AND SERVICES ACT (FVPSA) GRANTS.

01. Overview. Money may be awarded to a program under the Family Violence Prevention and Services Act (FVPSA) Grant, Title III of the Child Abuse Amendments of 1984 P.L. 98-457, 42 U.S.C. 10401, et seq. and any applicable rules and regulations. ()

02. Distribution. If all seven (7) regions have qualified and eligible applicants, then ten percent (10%) of the FVPSA Grant funds will be awarded to each region. ()

a. The Council has discretion to disperse the remaining funds (thirty percent (30%)) throughout the state based on need and demand for services, as determined by considering best available data, and consistent with FVPSA guidelines. If any regions do not have eligible applicants with acceptable applications, the Council will use discretion in allocating that region's remaining percentage to other programs as described above. ()

b. At its discretion, the Council may solicit proposals for specific types of programs or services to fill identified victim service gaps in any region. ()

301. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, 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.

Idaho continues to experience increased cost of living. These changes provide for increased reimbursement to foster parents and address the increased cost in caring for a child in foster care. During the 2022 legislative session, the Division of Family and Community Services (FACS) requested an increase to the budget to allow for an increase to the reimbursement to foster parents and to increase the reimbursement amount for youth age eighteen through twenty-one (18-21) in extended foster care. JFAC approved this request and utilized additional funds to make the increase effective April 1, 2022. The funding for this increased foster care reimbursement is included in appropriation bill H0773 (2022).

Not updating this rule would leave foster parents with reimbursement rates out of alignment with approved budget and fees. Community members will be unable to care for children in foster care without having to use their own finances to do so. There would be a continued decline in the number of community members willing to provide foster care.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 151 and 152](#).

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

Funds are provided through State General Funds and federal Title IV-E and IV-B funds. The total increased spending associated with this change is \$6,103,400 (\$3,284,900 State General Fund and \$2,818,500 Federal funds). These amounts were allocated by the 2022 Idaho Legislature for this purpose (H0733-2022). These funds will go directly to foster and adoptive families. The FACS case management system has been updated to generate the new rates, and there is no fiscal impact to the case management system change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Julie Sevcik, 208-863-4229 and Michelle Weir, 208-334-5651.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is August 18, 2022.

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 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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:

Idaho continues to experience increased cost of living. These changes provide for increased reimbursement to foster parents and address the increased cost in caring for a child in foster care. During the 2022 legislative session, the Division of Family and Community Services (FACS) requested an increase to the budget to allow for an increase to the reimbursement to foster parents and to increase the reimbursement amount for youth age eighteen through twenty-one (18-21) in extended foster care. JFAC approved this request and utilized additional funds to make the increase effective April 1, 2022. The funding for this increased foster care reimbursement is included in appropriation bill H0773 (2022).

Not updating this rule would leave foster parents with reimbursement rates out of alignment with approved budget and fees. Community members will be unable to care for children in foster care without having to use their own finances to do so. There would be a continued decline in the number of community members willing to provide foster care.

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:
This confers a benefit to foster parents and foster children and the need to increase reimbursements to prevent the further decline of foster parents and their financial ability to participate in the Foster Parent Program.

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

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

Funds are provided through State General Funds and federal Title IV-E and IV-B funds. The total increased spending associated with this change is \$6,103,400 (\$3,284,900 State General Fund and \$2,818,500 Federal funds). These amounts were allocated by the 2022 Idaho Legislature for this purpose (H0733-2022). These funds will go directly to foster and adoptive families. The FACS case management system has been updated to generate the new rates, and there is no fiscal impact to the case management system change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are simple in nature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Julie Sevcik, 208-863-4229 and Michelle Weir, 208-334-5651.

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 September 28, 2022.

DATED this 5th day of August, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0601-2201

483. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.

Monthly payments for care provided by family alternate care providers are:

Family Alternate Care Payments - Table 483				
Ages	0-5	6-12	13-17	18-20
Monthly Room and Board	\$ 395 632	\$ 439 702	\$ 584 759	\$ 674 876

~~(3-15-22)~~()

01. Gifts. An additional thirty dollars (\$30) for Christmas gifts and twenty dollars (\$20) for birthday gifts will be paid in the appropriate months. (3-15-22)

02. Clothing. Costs for clothing will be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child. (3-15-22)

03. School Fees. School fees due upon enrollment will be paid directly to the school or to the alternate care providers, based upon the Department's determination of the child's needs. (3-15-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2202

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, 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.

In 2018 the Family First Act (Public Law (P.L.) 115-123), became effective allowing for the use of federal funds to prevent children at risk from entering foster care. Idaho is currently negotiating our five-year prevention plan that outlines the requirements that define when a family qualifies for the use of these funds to prevent a qualifying child from entering foster care. Idaho contract requirements include that when multiple contracts will be issued for the same services that the rates must be published.

Under Core Child and Family Services, the prevention services and community support services will be combined to reflect the application of services to prevent children at risk of entering foster care. The rule will further clarify for the purpose of entering into multiple statewide contracts the rates that have been set for statewide service provision and where those rates are located. This will provide clarity to prevention services and rates paid to private agencies by the department.

If these rates are not promulgated, the Division of Family and Community Services (FACS) will be unable to implement multiple contracts for services across the state that have standard rates for the provision of services. Not having prevention service rates published statewide would lead to inconsistency in the rate of payment to private agencies who provide services.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 153 through and 156](#).

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

There will be an increase in Title IV-E federal funds to pay for prevention services currently covered by state general funds and other federal grants. Based on current use of in-home parenting and intensive parent-child therapy this impact is expected to be less than \$100,000 during the first 12 months of prevention services. Due to stand up time for services this cost will be significantly less in SFY 2023. Prevention Services will be eligible for Title IV-E funds at 50% of Federal Medical Assistance Percentage (FMAP) through 2026 and then at the full FMAP rate.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Julie Sevcik at 208-863-4229.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

In 2018 the Family First Act (Public Law (P.L.) 115-123), became effective allowing for the use of federal funds to prevent children at risk from entering foster care. Idaho is currently negotiating our five-year prevention plan that outlines the requirements that define when a family qualifies for the use of these funds to prevent a qualifying child from entering foster care. Idaho contract requirements include that when multiple contracts will be issued for the same services that the rates must be published.

Under Core Child and Family Services, the prevention services and community support services will be combined to reflect the application of services to prevent children at risk of entering foster care. The rule will further clarify for the purpose of entering into multiple statewide contracts the rates that have been set for statewide service provision and where those rates are located. This will provide clarity to prevention services and rates paid to private agencies by the department.

If these rates are not promulgated, the Division of Family and Community Services (FACS) will be unable to implement multiple contracts for services across the state that have standard rates for the provision of services. Not having prevention service rates published statewide would lead to inconsistency in the rate of payment to private agencies who provide services.

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

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

There will be an increase in Title IV-E federal funds to pay for prevention services currently covered by state general funds and other federal grants. Based on current use of in-home parenting and intensive parent-child therapy

this impact is expected to be less than \$100,000 during the first 12 months of prevention services. Due to stand up time for services this cost will be significantly less in SFY 2023. Prevention Services will be eligible for Title IV-E funds at 50% of Federal Medical Assistance Percentage (FMAP) through 2026 and then at the full FMAP rate.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rule will provide guidance on how services rates are determined and where rates are located. These changes are simple in nature, needed to align with federal requirements, and to maintain consistency in rates of payment.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Julie Sevcik, 208-863-4229

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0601-2202

030. CORE CHILD AND FAMILY SERVICES.

~~The following core services are the state and federally mandated services provided by or through regional Child and Family Services offices.~~ State and federally mandated core services provided by or through regional Child and Family offices include: (3-15-22)()

01. Crisis Services. Crisis Services are an immediate response to ensure safety when a child is believed to be in imminent danger ~~as a result~~ because of child abuse, neglect, or abandonment. Crisis services require immediate access to services, ~~twenty-four (24) hours per day, seven (7) days per week~~ always to assess safety and place in alternate care, if necessary, to ensure safety for the child. (3-15-22)()

02. Screening Services. Initial contact with families and children to gather information to determine whether ~~or not~~ the child meets eligibility criteria to receive child protection or adoption services. When eligibility criteria is not met for Department mandated services, appropriate community referrals are made. (3-15-22)()

03. Assessment and Safety/Service Planning Services. ~~P~~Assessment process in which the safety threats to the child, and the family's concerns, strengths, and resources are identified. ~~Based on this assessment, a~~ after which a written plan is developed by the worker, together with the family and other interested parties. Each plan must have a long-term goal that identifies behaviorally-specific and measurable desired results and has specific tasks that identify who, how, and when the tasks will be completed. (3-15-22)()

04. Preventative Prevention Services. ~~Community~~ Evidence-based services that support children and families and are designed to reduce the risk of child abuse, neglect, or abandonment. (3-15-22)()

a. These services are provided in the Family First Prevention Services Act (Public Law 115-123) under the categories of mental health, substance use prevention and treatment, and in-home parent skill-based programs and services. Additional services can ~~involve direct services, but are primarily~~ be implemented through community education, and partnerships with other community agencies such as schools and courts. (3-15-22)()

b. The Department sets the maximum hourly or flat rates for Prevention Services covered by Title IV-E federal funding and are based on the cost for services. When services are provided by private providers, payment must be made according to a contract authorized by the Child and Family Services Program Manager, based on the cost for services to be provided. Current information about services and rates can be obtained from Child and Family Services website. (3-15-22)()

05. Court-Ordered Services. These services primarily involve court-ordered investigations or assessments of situations where children are believed to be at risk due to child abuse, neglect, or abandonment. (3-15-22)

06. Alternate Care (Placement) Services. Temporary living arrangements outside of the family home for children and youth who are victims of child abuse, neglect, or abandonment. ~~These out-of-home placements are arranged for and financed, in full or in part, by the Department.~~ The Department arranges and finances, in full or in part, out-of-home placements. Alternate care is initiated through either a court order or voluntarily through an out-of-home placement agreement. Payment will be made on behalf of a child placed in the licensed home of an individual or relative, a ~~public or private~~ child care institution, a home licensed or approved by an Indian child's tribe, or in a state-licensed public child care institution accommodating no more than twenty-five (25) children. Payments may be made to individuals or to a ~~public or private~~ child placement or child care agency. (3-15-22)()

07. Community Support Services. Services provided to a child and family in a community-based setting designed to increase the strengths and abilities of the child and family and to preserve the family whenever possible. Services include respite care and family preservation. (3-15-22)

08. Interstate Compact on Out-of-State Placements. Where necessary to encourage all possible positive contacts with family, including extended family, placement with family members or others who are outside the state of Idaho will be considered. On very rare occasion the Department may contract with a residential facility out-of-state if it best serves the needs of the child and is at a comparable cost to facilities within Idaho. When out-of-state placement is considered in the permanency planning for a child, such placement will be coordinated with the respective interstate compact administrator according to the provisions of Section 16-2101, et seq., Idaho Code, the "Interstate Compact on the Placement of Children." Placements must ~~be in compliance with~~ follow all state and federal laws. (3-15-22)()

09. Independent Living. Services, including assessment and planning, provided to eligible youth to promote self-reliance and successful transition to adulthood. (3-15-22)

a. Eligibility ~~Requirements for~~ Current Foster Youth. To be eligible for independent living services, ~~a current foster~~ the youth must: (3-15-22)()

- i. Be fourteen (14) to twenty-one (21) years of age; (3-15-22)
- ii. Currently be under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or be under a voluntary agreement for continued care if the youth is between eighteen (18) and twenty-one (21) years of age; and (3-15-22)

b. Eligibility ~~Requirements for~~ Former Foster Youth. To be eligible for independent living services, ~~a former foster~~ the youth must: (3-15-22)()

- i. Be a former foster youth who is currently under twenty-three (23) years of age; and (3-15-22)
- ii. Have been under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or under a voluntary agreement for continued care after the youth has reached eighteen (18) years of age; and (3-15-22)
- iii. Have been placed in foster care or similar eligible setting for a minimum of ninety (90) days total after reaching sixteen (16) years of age or have aged out of foster care; or (3-15-22)
- iv. Be eighteen (18) to twenty-three (23) years of age, provide verification of meeting the Independent

Living eligibility criteria in another state, and currently be a resident of Idaho. (3-15-22)

c. Eligibility Limit. Once established as in Subsection 030.09.b. in this rule, a youth's eligibility is maintained up to their twenty-third birthday, regardless of whether they continue to be the responsibility of the Department, tribe, or be in foster care. (3-15-22)

10. Adoption Services. Department services designed to promote and support the permanency of children with special needs through adoption. This involves the legal and permanent transfer of ~~all~~ parental rights and responsibilities to the family assessed as the most suitable to meet the needs of the individual child. Adoption services ~~also seeks~~ to build the community's capacity to deliver adoptive services. (3-15-22)()

11. Administrative Services. Regulatory activities and services that assist the Department in meeting the goals of safety, permanency, health and well-being for children and families. ~~These services~~ include: (3-15-22)()

- a. Child care licensing; (3-15-22)
- b. Daycare licensing; (3-15-22)
- c. Community development; and (3-15-22)
- d. Contract development and monitoring. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

~~923. DISRUPTION OF INTERNATIONAL ADOPTIONS.~~

~~The Intercountry Adoption Act of 2000 (P.L. 106-279) requires that each state make an annual report of children who were adopted from other countries who enter state guardianship as a result of termination of the parental rights of the adoptive parent and the dissolution of the adoption. The report will include the name of the agency who handled the placement or the adoption, the plans for the child, and the reasons for the disruption or dissolution. Each region will collect this information and send it to the Department's Permanency Program Specialist in January of each year.~~ (3-15-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.12 – IDAHO CHILD CARE PROGRAM (ICCP)

DOCKET NO. 16-0612-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 56-202, 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.

A recent federal audit of the Idaho Child Care Program determined that Idaho is out of compliance with the following:

- Federal law, 45 CFR 98.21(a)(1), related to subsidy eligibility. These rule changes will bring Idaho into compliance. (Child Care and Development Fund (CCDF) Plan for Idaho FFY 2022-2024 Section 3.4.1)
- Federal law, 45 CFR 98.41(a)(1)(vi), related to prevention of Shaken Baby Syndrome, Head Trauma, and Child Maltreatment for children accessing child care. These rule changes will bring Idaho into compliance. (Child Care and Development Fund (CCDF) Plan for Idaho FFY 2022-2024 Section 5.3.6)

This rulemaking is also being done due to the need for more assistance to Idaho families who are struggling to pay for child care costs. Forty-five percent (45%) of Idaho families struggle to meet their basic budget needs, and having help with child care costs allows for more resources to assist with other aspects of family budgeting, as child care costs are often the highest cost for most counties in Idaho, even more so than housing.

This rulemaking increases the federal poverty limit for child care assistance, therefore allowing more Idaho families access to a benefit that would help them cover a portion of their child care bill.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 319 - 324](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ericka Rupp at 208-334-5641.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Virtual Public Hearing via WebEx
Thursday, October 13, 2022 10:00 a.m. to 11:30 a.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=ma1d5ab02decab7bf8fd2e930f137a004
Webinar Number: 2763 142 1076
Webinar Password: 5JZjZxS5zU3 (55959975 from phones)
Join by Phone: +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)
Access code: 276 314 21076

Virtual Public Hearing via WebEx
Tuesday, October 18, 2022 10:00 a.m. to 11:30 a.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=mad392c5aaf1682ae9a2a29067204a106
Webinar Number: 2761 590 1253
Webinar Password: A6Ts44v5wJC (26874485 from phones)
Join by Phone: +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)
Access code: 276 159 01253

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

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

During a federal audit of the Idaho Child Care Program it was determined that Idaho is out of compliance with the following:

1. Federal law, 45 CFR 98.21(a)(1), related to subsidy eligibility and the proposed changes will bring us into compliance. (Child Care and Development Fund (CCDF) Plan for Idaho FFY 2022-2024 Section 3.4.1)
2. Federal law, 45 CFR 98.41(a)(1)(vi), related to prevention of Shaken Baby Syndrome, Head Trauma, and Child Maltreatment for children accessing child care, and the proposed changes will bring us into compliance. (Child Care and Development Fund (CCDF) Plan for Idaho FFY 2022-2024 Section 5.3.6)

This proposed rule is due to the need for more assistance to Idaho families who are struggling to pay for child care costs. Forty-five percent (45%) of Idaho families struggle to meet their basic budget needs, and having help with child care costs allows for more resources to assist with other aspects of family budgeting, as child care costs are often the highest cost for most counties in Idaho, even more so than housing.

The proposed rule increases the federal poverty limit for child care assistance, therefore allowing more Idaho families access to a benefit that would help them cover a portion of their child care bill.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees associated with this chapter of rule.

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

The funds being used to implement the proposed changes are federal Child Care and Development Block Grant (CCDBG) funds and such funds are sufficient to meet all proposed costs for the foreseeable future. The funds being used to implement the proposed changes in our automated systems are federal Child Care and Development Block Grant (CCDBG) funds and such funds are sufficient to meet all proposed costs for the foreseeable future.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are to align with federal requirements, promote the public health and safety of Idahoans, and confer a benefit to stakeholders.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no changes that include an incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ericka Rupp at 208-334-5641.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 29th day of August, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0612-2201

070. INCOME LIMITS.

To be eligible for child care assistance, a family's countable income must meet the following *guidelines* using the published Federal Poverty Guidelines (FPG) available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty>. (3-17-22)()

01. Income at Application. ~~At the time of application~~ **When applying**, a family's income cannot exceed one hundred ~~thirty~~ **seventy-five** percent (~~130~~**75**%) of ~~the Federal Poverty Guidelines (FPG)~~ for a family of the same size. (3-17-22)()

02. Income During Eligibility Period. During the eligibility period, when a family's countable income exceeds eighty-five percent (85%) of the State Median Income (SMI) for a family of the same size, the family becomes ineligible for child care assistance. (3-17-22)

03. Income at *Time of Redetermination*. At ~~the time of~~ redetermination, if a family's income exceeds one hundred ~~thirty~~ **seventy-five** percent (~~130~~**75**%) of ~~the Federal Poverty Guidelines (FPG)~~ for a family of the same size, the family may be eligible to receive a graduated phase out of child care assistance. (3-17-22)()

(BREAK IN CONTINUITY OF SECTIONS)

103. COOPERATION IN ESTABLISHMENT OF PATERNITY AND OBTAINING SUPPORT.

A natural or adoptive parent, or other individual who lives with and exercises parental control over a minor child who has an absent parent, must cooperate in establishing paternity for the child and obtaining child support **at application and redetermination**. (3-17-22)()

01. Providing All Information. "Cooperation" includes providing all information to identify and locate the non-custodial parent, unless good cause for non-cooperation exists. (3-17-22)

02. Established Case for Custodial Parent. After Child Support Services (~~CSS~~) has established a case for a custodial parent, all child support payments must be sent directly to CSS. If the custodial parent receives child support directly from the non-custodial parent, the custodial parent must forward the payment to CSS for receiving. (3-17-22)()

03. Failure to Cooperate. (3-17-22)

a. ~~Failure to cooperate includes~~ **This includes** failure to complete the non-custodial or alleged parent information or filiation affidavit as requested, failure to sign the limited power of attorney, or evidence of failure to cooperate provided by ~~Child Support Services (CSS)~~. (3-17-22)()

b. When a parent or individual fails to cooperate ~~in establishing paternity and obtaining support~~, the family is not eligible to participate in the Idaho Child Care Program. (3-17-22)()

04. ~~Exemptions From Cooperation Requirement~~ Exemptions. The parent or individual will not be required to provide information about the non-custodial or alleged parent or otherwise cooperate in establishing paternity or obtaining support if good cause for not cooperating exists. Good cause for failure to cooperate must be provided. (3-17-22)()

a. Good cause for failure to cooperate in obtaining support is: (3-17-22)

i. Proof the child was conceived ~~as a result~~ **because** of incest or forcible rape; (3-17-22)()

ii. Proof the non-custodial parent may inflict physical or emotional harm to the children, the custodial parent, or individual exercising parental control. This must be supported by medical evidence, police reports, or as a last resort, an affidavit from a knowledgeable source; and (3-17-22)()

iii. Substantial and credible proof is provided indicating the custodial parent cannot provide the minimum information regarding the non-custodial parent. (3-17-22)

b. A parent or individual claiming good cause for failure to cooperate must submit a notarized statement to the Department identifying the child for whom the exemption is claimed. ~~The statement must list and~~ the reasons for the good cause claim. (3-17-22)

c. The cooperation requirement will be waived if good cause exists. No further action will be taken to establish paternity or obtain support. If good cause does not exist, the parent will be notified that they are not eligible to receive ~~Idaho Child Care program~~ **ICCP** benefits, until child support cooperation has been obtained. (3-17-22)()

(BREAK IN CONTINUITY OF SECTIONS)

503. COPAYMENTS.

Eligible families, except TAFI families participating in non-employment TAFI activities and guardians of foster children, must pay part of their child care costs. ~~Providers are responsible for ensuring families pay the determined child care costs and must not waive these costs.~~ (3-17-22)()

01. ~~Poverty Rates~~ **Provider Responsibility.** ~~Poverty rates will be one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty>. The monthly rate will be calculated by dividing the yearly rate by twelve (12). Providers are responsible for ensuring families pay the determined child care costs and must not waive these costs.~~ (3-17-22)()

02. **Calculating Family Payment.** Family income and activity 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 or billed costs, whichever is lower, less the co-payment. (3-17-22)()

(BREAK IN CONTINUITY OF SECTIONS)

602. REDETERMINATION OF ELIGIBILITY FOR CHILD CARE BENEFITS.

01. **Redetermination.** The Department will redetermine eligibility for child care benefits at least every twelve (12) months. (3-17-22)

02. **Graduated Phase Out.** At ~~the time of~~ redetermination, if a household's income exceeds one hundred ~~thirty~~ **seventy-five** percent (~~130~~**75**%) of ~~the Federal Poverty Guidelines (FPG)~~ for a family of the same size eligible children may receive a graduated phase out benefit. ~~Graduated phase out benefits are that is~~ limited to twelve (12) months following the completion of a redetermination ~~as defined in~~ **under** the Idaho Child Care State Plan. (3-17-22)()

(BREAK IN CONTINUITY OF SECTIONS)

802. HEALTH AND SAFETY REQUIREMENTS.

All providers must comply with the health and safety requirements ~~listed in Subsections 802.01 through 802.13 of~~ **under** this rule. All providers must agree to an annual, unannounced health and safety inspection, ~~with the exception of except for~~ in-home child care ~~described in~~ **under** Section 401 of these rules. Compliance with these standards does not exempt a provider from complying with stricter health and safety standards under state law, tribal law, local ordinance, or other applicable law. (3-17-22)()

01. **Age of Provider.** All child care providers providing services must be eighteen (18) years old or older. Persons sixteen (16) or seventeen (17) years old may provide child care if they have direct, on-site supervision from a licensed child care provider who is at least eighteen (18) years old. (3-17-22)

- 02. Sanitary Food Preparation.** Food for use in child care facilities must be prepared and served in a sanitary manner. Utensils and food preparation surfaces must be cleaned and sanitized before using to prevent contamination. (3-17-22)
- 03. Food Storage.** All food served in child care facilities must be stored to protect it from potential contamination. (3-17-22)
- 04. Hazardous Substances.** Medicines, cleaning supplies, and other hazardous substances must be handled safely and stored out of the reach of children. Biocontaminants must be disposed of appropriately. (3-17-22)
- 05. Emergency Communication.** A telephone or some type of emergency communication system is required. (3-17-22)
- 06. Smoke Detectors, Fire Extinguishers, and Exits.** A properly installed and operational smoke detector must be on the premises where child care occurs. Adequate fire extinguishers and fire exits must be available on the premises. (3-17-22)
- 07. Hand Washing.** Each provider must wash ~~his~~ their hands with soap and water at regular intervals, including before feeding, after diapering or assisting children with toileting, after nose wiping, and after administering first aid. (3-17-22)()
- 08. CPR/First Aid.** All providers must have current certification in pediatric rescue breathing (CPR) and pediatric first aid treatment from a certified instructor. (3-17-22)
- 09. Health of Provider.** Each provider must certify that ~~he does~~ they do not have a communicable disease or any physical or psychological condition that might pose a threat to the safety of a child in ~~his~~ their care. (3-17-22)()
- 10. Child Abuse.** Providers must report suspected child abuse to the appropriate authority. (3-17-22)
- 11. Transportation.** Providers who transport children as part of their child care operations must operate safely and legally, using child safety restraints and seat belts as required by state and local statutes. (3-17-22)
- 12. Disaster and Emergency Planning.** Providers must have documented ~~policies and procedures~~ planning plans for emergencies resulting from a natural disaster, or man-caused event that include: (3-17-22)()
- a.** Procedures for ~~E~~vacuation, relocation, shelter-in-place, ~~and~~ lock-down procedures, and procedures for communication and reunification with families, continuity of operations, and accommodation of infants and toddlers; and children with disabilities, ~~and children with~~ or chronic medical conditions. (3-17-22)()
- b.** Procedures for staff and volunteer emergency preparedness training and practice drills. (3-17-22)
- c.** Guidelines for the continuation of child care services in the period following the emergency or disaster. (3-17-22)
- 13. Environmental Safety.** Building and physical premises must be safe, including identification of and protection from hazards that can cause bodily injury including electrical hazards, bodies of water, and vehicular traffic. (3-17-22)
- 14. Safe Sleep.** Providers must place newborn infants to twelve (12) months in a safe sleep environment. Safe sleep practices include; alone, on their backs, and in a Consumer Product Safety Commission (CPSC) certified crib. (3-17-22)()
- 15. Behavior Management and Discipline.** Methods of behavior management and discipline for children must be positive, consistent, and based on each child's needs, stage of development, and behavior. Discipline is to promote self-control, self-esteem, and independence. Providers must certify that they will not harm, shake, or abuse children, and that children in their care will not experience maltreatment under 45 CFR 98.41. ()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.07.33 – ADULT MENTAL HEALTH SERVICES

DOCKET NO. 16-0733-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 39-3140, 56-1003(1), 56-1003(3)(d), 56-1004, and 56-1004A, 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.

Under [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

Changes to text being made at this pending stage are to clarify the proposed language, eliminate obsolete language, and streamline rule text. They do not include any meaningful policy changes to the proposed text.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 196 through 201](#).

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Treena Clark at 208-334-6611.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-3140, 56-1003(1), 56-1003(3)(d), 56-1004, and 56-1004A, Idaho Code.

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

Virtual Public Hearing via WebEx
Tuesday, September 20, 2022 1:00 p.m. to 2:00 p.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m5a1a42bd9dbe63b717dd807fbc9baca0
Join by Phone: 1-415-527-5035 or 1-303-498-7536
Meeting access code: 2761 289 2093
Meeting password: eDA7ZxEAy55 (33279932 from phones and video systems)

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

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

In accordance with [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the February 2, 2022, Idaho Administrative Bulletin, [Vol. 22-2, pages 36-37](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) is being incorporated by reference into these rules to give it the force and effect of law. This will replace the currently incorporated document, DSM-5. The document is not being published in this chapter of rules due to its length and format, and may be ordered from American Psychiatric Association, 800 Maine Avenue, S.W., Suite 900, Washington, DC 20024.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Treena Clark at (208) 334-6611.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 16-0733-2201

16.07.33 – ADULT MENTAL HEALTH SERVICES

000. LEGAL AUTHORITY.

Under Section 39-3140, Idaho Code, the Department is authorized to promulgate rules to carry out the Regional Behavioral Health Services Act. Under Sections 56-1003(3)(d), 56-1004, and 56-1004A, Idaho Code, the Director is authorized to adopt rules to supervise and administer a mental health program. ()

001 – 002. (RESERVED)

003. ADMINISTRATIVE APPEALS.

Administrative appeals from a denial of eligibility under Section 102 of these rules are governed by IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” ()

004. INCORPORATION BY REFERENCE.

American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR), Washington, DC, 2022, is hereby incorporated by reference under *these* rules. Copies of the manual are available from the American Psychiatric Association, 800 Maine Avenue, S.W., Suite 900, Washington, DC 20024. ()

005. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Background Checks. All employees, interns, contractors, and volunteers of adult mental health services must comply with IDAPA 16.05.06, “Criminal History and Background Checks,” Section 101. ()

02. Availability to Work or Provide Service. An individual *under* Subsection 009.01 of *this* rule is available to work on a provisional basis at the discretion of the employer or agency once the individual has submitted their background check application, it has been reviewed by the employer or agency, and no disqualifying crimes or relevant records are disclosed on the application. An individual is fingerprinted within twenty-one (21) days of submitting their background check. ()

a. An individual is allowed to work or have access to participants only under supervision until the background check is completed. ()

b. An individual, who does not receive a background check clearance or have a Behavioral Health waiver granted under *these rules*, may not provide direct care or services, or serve in a position that requires regular contact with participants. ()

03. Waiver of Background Check Denial. ()

a. A certified individual who is seeking to provide Peer Support Specialist, Family Support Partner, or Recovery Coach services that receives an unconditional denial or a denial after an exemption review by the Department's Criminal History Unit, may apply for a Behavioral Health waiver. ()

b. An individual is allowed to work with or have access to participants only under supervision until the waiver request is processed. ()

010. DEFINITIONS

01. Adult. An individual eighteen (18) years or older. ()

02. Adult Mental Health Services (AMHS). Are listed in Section 301 of these rules. These services are provided in response to the mental health needs of adults eligible for services required in Title 39, Chapter 31, Idaho Code, the Regional Behavioral Health Service Act, and under Section 102 of these rules. ()

03. Applicant. An adult individual who is seeking mental health services through the Department who has completed, or had completed on their behalf, an application for mental health services. ()

04. Clinical Assessment. The gathering of historical and current clinical information through a clinical interview and from other available resources to identify a participant's mental health issues, strengths, and service needs. ()

05. Clinical Team. A proposed participant's clinical team may include: clinicians, behavioral health professionals, professionals other than behavioral health professionals, behavioral health technicians, and any other individual deemed appropriate and necessary to ensure that the treatment is comprehensive and meets the needs of the proposed participant. ()

06. Crisis Intervention Services. A set of planned activities designed to reduce the risk of life-threatening harm to self or another person. Crisis intervention services include evaluation, assessment, intervention, stabilization, and follow-up planning. ()

07. Department. The Idaho Department of Health and Welfare or its designee. ()

08. Eligibility Screening. The collection and review of information directly related to the applicant's mental health and level of functioning, which the Department uses to determine whether an applicant is eligible for adult mental health services available through the Department's Division of Behavioral Health. ()

09. Mental Health Crisis. Occurs when a sudden loss of an adult individual's ability to use effective problem-solving and coping skills leads to an imminent risk of harm to self or others, or decompensation to the point of the individual's inability to protect themselves. ()

10. Network Treatment Provider. Any provider, group of providers, or entity that has a network provider agreement with the Department's Division of Behavioral Health contractor to provide behavioral health services. ()

11. Participant. A person receiving mental health services through the Department. ()

12. Serious Mental Illness (SMI). Any of the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, (DSM-5-TR), incorporated in these rules: ()

a. Schizophrenia spectrum and other psychotic disorders; ()

b. Bipolar disorders (mixed, manic, and depressive); ()

- c. Major depressive disorders (single episode or recurrent); ()
- d. Obsessive-compulsive disorders. ()

13. Serious and Persistent Mental Illness (SPMI). A primary diagnosis under DSM-5-TR of Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Psychotic Disorder Not Otherwise Specified (NOS) for a maximum of one hundred twenty (120) days without a conclusive diagnosis. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following functional areas in the last six (6) months: ()

- a. Vocational or educational, or both. ()
- b. Financial. ()
- c. Social relationships or support, or both. ()
- d. Family. ()
- e. Basic daily living skills. ()
- f. Housing. ()
- g. Community or legal, or both. ()
- h. Health or medical, or both. ()

011. -- 099. (RESERVED)

100. ACCESSING ADULT MENTAL HEALTH SERVICES (AMHS).

Individuals may access AMHS administered by the Department's Division of Behavioral Health through an eligibility screening. ()

101. ELIGIBILITY SCREENING AND MENTAL HEALTH ASSESSMENT.

01. Eligibility Screening. The eligibility screening must be directly related to the participant's mental illness and level of functioning and is based on the eligibility criteria under Section 102 of these rules. ()

02. Clinical Assessment. Once an individual is found eligible for *AMHS* the individual will be authorized to receive a clinical assessment from a treatment provider in the Division of Behavioral Health's *AMHS* network to determine level of care. ()

102. ELIGIBILITY DETERMINATION.

01. Determination of Eligibility for Mental Health Services. The Department may limit or prioritize mental health services, define eligibility criteria, or establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. ()

- 02. Eligibility Requirements.** To be eligible for voluntary mental health services, the individual must: ()
 - a. Be an adult; ()
 - b. Be a resident of the state of Idaho; and ()
 - c. Have a primary diagnosis of SMI or SPMI. ()

03. Court-Ordered Assessment, Treatment, and Services. The court may order the Department to provide assessment, treatment, and services according to Sections 18-212, 19-2524, and 66-329, Idaho Code. ()

04. Ineligible Conditions. An individual who has a neurological disorder, a neurocognitive disorder as defined in Section 66-317, Idaho Code, a developmental disability as defined in Section 66-402, Idaho Code, a physical disability, or any medical disorder that includes psychiatric symptomology or is primarily impaired by substance use, unless in addition to such condition, such person is mentally ill. ()

103. NOTICE OF CHANGES IN ELIGIBILITY FOR MENTAL HEALTH SERVICES.
The Department may, upon ten (10) days' written notice, reduce, limit, suspend, or terminate eligibility for mental health services. ()

104. CRISIS INTERVENTION SERVICES.
Crisis intervention services are available twenty-four (24) hours per day, seven (7) days per week to adults experiencing a mental health crisis as defined under Section 010 of these rules. Crisis intervention services include evaluation, assessment, intervention, stabilization, and follow-up planning. ()

01. Determination of the Need for Crisis Intervention Services. The Department or its contractors will assess an adult experiencing a mental health crisis to determine whether services are needed to alleviate the crisis. ()

02. Identification of the Crisis Intervention Services Needed. If crisis intervention services are clinically necessary, as determined by the Department or its contractors, the Department or its contractors will: ()

- a. Identify the services needed to stabilize the crisis; ()
- b. Arrange for the provision of the crisis intervention services; and ()
- c. Document in the individual's record the crisis services that are to be provided to the individual. ()

03. Immediate Intervention. If the Department determines that a mental health crisis exists necessitating immediate intervention, crisis services will be arranged immediately. ()

105. NOTICE OF DECISION ON ELIGIBILITY AND RIGHT TO APPEAL.

01. Notification of Eligibility Determination. Within two (2) business days of receiving a completed screening, the Department or its contractors will notify the applicant or the applicant's designated representative in writing of its eligibility determination. ()

02. Notice of Right to Appeal. When the applicant is not eligible for services through the Department or its contractor(s), the Department or its contractor(s) will notify the applicant or the applicant's designated representative. The written notice will include: ()

- a. A statement of the decision and the concise reasons for it; ()
- b. The process and timeline for pursuing an appeal of the decision under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings"; and ()
- c. The right to be represented on appeal. ()

106. -- 119. (RESERVED)

120. PARTICIPANT'S RIGHTS AND RESPONSIBILITIES.
The Department will inform each participant receiving *AMHS* through the Department of their rights and

responsibilities prior to the delivery of mental health services. Each participant is given a written statement of participant rights and responsibilities, which includes who the participant may contact with questions, concerns, or complaints regarding services provided. ()

121. -- 999. (RESERVED)