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**IDAPA 16
TITLE 02
CHAPTER 05**

**16.02.05 – RULES GOVERNING HUMAN IMMUNODEFICIENCY VIRUS
(HIV) RELATED SERVICES**

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under Section 56-1003, Idaho Code, to adopt rules concerning the administration of Human Immunodeficiency Virus (HIV) Related Services in compliance with the Ryan White CARE Act of 1990 as amended. (5-3-03)

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 16.02.05, Idaho Department of Health and Welfare, “Rules Governing Human Immunodeficiency Virus (HIV) Related Services.” (5-3-03)

02. Scope. These rules contain definitions, application process, eligibility requirements, and services available, for individuals with HIV. HIV related services provide treatment of HIV infection to eligible participants based upon available funds. The Department provides these services to improve the public health by treating people living with HIV, its complications, and side effects of HIV treatment in order to decrease the risk of clients with HIV infecting others. (5-3-03)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department has no written interpretations that apply to rules of this chapter. (5-3-03)

003. ADMINISTRATIVE APPEALS.

All contested cases are governed by provisions of IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings.” (5-3-03)

004. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department is subject to the restrictions in Idaho law including those contained in Section 39-610, Idaho Code, and the Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, “Use and Disclosure of Department Records.” (5-3-03)

005. OFFICE – OFFICE HOURS – MAILING ADDRESS – STREET ADDRESS.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (5-3-03)

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, ID 83720-0036. (5-3-03)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, ID 83720-0036. (5-3-03)

006. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. (5-3-03)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. AIDS. AIDS means acquired immunodeficiency syndrome. (5-3-03)

02. AIDS Drug Assistance Program (ADAP). AIDS Drug Assistance Program is the Idaho Department of Health and Welfare's program that provides medications for the treatment of HIV, prevention and

- treatment of opportunistic infections associated with HIV. (5-3-03)
- 03. Case Manager.** An individual qualified to assess needs of an eligible HIV participant. (5-3-03)
- 04. Department.** Department means the Idaho Department of Health and Welfare. (5-3-03)
- 05. Family.** Family means a group of individuals related by marriage and their dependents who are living as one household or economic group. (5-3-03)
- 06. Federal Poverty Level.** Federal poverty level is the official income level for poverty adjusted by family size released by the Federal Office of Management and Budget every February. (5-3-03)
- 07. HIV Related Services.** Those services identified in Section 200 of these rules. (5-3-03)
- 08. Income.** Income means gross monthly income before deductions as set forth in Section 100 of these rules. (5-3-03)
- 09. Medicaid.** Medicaid is a federal and state health program established by Title XIX of the Social Security Act. (5-3-03)
- 10. Provider.** Health care professionals providing pharmaceutical, medical, dental or laboratory services to the participant. (5-3-03)
- 11. Participant.** The person applying for or determined to be eligible for HIV related services. (5-3-03)

011. -- 099. (RESERVED)

100. WHO IS ELIGIBLE FOR HIV RELATED SERVICES?

The Department must approve the participant's application. Beginning the month the application is approved, the participant is eligible for twelve (12) months of HIV related services. The participant must reapply annually. (5-3-03)

- 01. Participant Eligibility Requirements.** (5-3-03)
- a.** A medical diagnosis of HIV; and (5-3-03)
- b.** Must have an Idaho state address and reside in the state; and (5-3-03)
- c.** A monthly income as defined in Subsection 101.02 of these rules equal to or less than two hundred percent (200%) of the federal poverty level; and (5-3-03)
- d.** Not currently an inmate of any state correctional institution or will not be when their application is approved; and (5-3-03)
- e.** Does not have available resources from other sources sufficient to pay for HIV related services. (5-3-03)
- 02. Income.** Income means gross monthly income before deductions. Income includes the following: (5-3-03)
- a.** Monetary compensation for services, including wages, salary, commission or fees; (5-3-03)
- b.** Net income from farm and on-farm self-employment; (5-3-03)
- c.** Unemployment Insurance compensation; (5-3-03)
- d.** Government civilian employee or military retirement or pension, including Veteran's payments;

- (5-3-03)
- e. Private pensions or annuities; (5-3-03)
- f. Alimony or child support payments; (5-3-03)
- g. Regular contributions from persons not living in the household; (5-3-03)
- h. Net royalties; (5-3-03)
- i. Social Security benefits; (5-3-03)
- j. Dividends or interest on savings or bonds, income from estates or trusts, or net rental income; (5-3-03)
- k. Public assistance or welfare payments; and (5-3-03)
- l. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which are readily available to the family or participant. (5-3-03)

03. Private Insurance Coverage. If a participant has private insurance coverage that includes medication coverage, ADAP services for medications are available after the private insurance limitations are reached. (5-3-03)

04. Change in Participant's Eligibility. When the participant has a change in his eligibility requirements which includes private insurance coverage or income, he must inform the Department of those changes. (5-3-03)

101. HOW DO PARTICIPANTS APPLY FOR ASSISTANCE FROM THE HIV RELATED SERVICES?

01. Application. The participant must submit an application form provided by the Department. The application form will include information for determining each participant's eligibility and private insurance coverage. (5-3-03)

02. Applicant Eligible for Other Programs. The applicant may be eligible for services while waiting for a Medicaid eligibility determination or for services not provided by Medicaid. (5-3-03)

03. Waiver of Liability. Each participant is required to sign a waiver of liability and acknowledgement that financial assistance for the purchase of medication and services is subject to limits of federal and state funding available for this program. (5-3-03)

102. -- 199. (RESERVED)

200. WHAT SERVICES ARE AVAILABLE?

01. Ambulatory Outpatient Medical Care. Ambulatory outpatient medical care to include provision of professional diagnostic and therapeutic services related to HIV provided by a physician, physician's assistant, clinical nurse specialist, or nurse practitioner in an outpatient community based setting. (5-3-03)

02. Case Management Service. Case management services provided by a qualified case manager. A case manager must have a bachelor's degree or extensive experience in a human services related field such as social work, psychology, nursing, counseling, or health education. The services will include: (5-3-03)

- a. An assessment of the participant's needs and personal support systems; (5-3-03)
- b. Development of an individual service plan; (5-3-03)

- c. Coordination of services identified in the individual's service plan; (5-3-03)
- d. Monitoring services received; and (5-3-03)
- e. Re-evaluation of the participant's service plan periodically to make revisions to reflect the individual's needs. (5-3-03)

03. Dental Care Service. Dental care service includes diagnostic, prophylactic, and therapeutic services related to HIV provided by dentists, dental hygienists, and similar professional practitioners. (5-3-03)

04. Drug Reimbursement Service. Drug reimbursement includes ongoing service to pay for approved pharmaceutical medications related to HIV. This service includes ADAP and locally administered reimbursement programs. (5-3-03)

05. Health Insurance Service. Health insurance includes a program of financial assistance to maintain a continuity of health insurance or to receive medical benefits that covers HIV related services. Financial assistance for health insurance must be proven to be cost effective. (5-3-03)

06. Mental Health Service. Mental health therapy and counseling to an individual with a diagnosed mental illness includes psychological and psychiatric treatment and counseling services, including individual and group counseling. The service must be provided by a mental health professional employed by or under contract with the Department's Mental Health Program. (5-3-03)

07. Nutritional Service. Nutritional services includes the provision of nutrition education and counseling. Nutritional supplements will also be covered if prescribed by a physician. (5-3-03)

08. Psychosocial Support Services. Psychosocial support services includes peer counseling, support group services, caregiver support, bereavement counseling, drop-in counseling, and education provided to a participant focused on HIV related problems. These services will be provided by licensed counselors or licensed social workers. (5-3-03)

09. Substance Abuse Service. Substance abuse treatment and counseling includes the provision of treatment to address substance abuse problems provided in an outpatient or residential health service setting under contract with the Department's Substance Abuse Program. (5-3-03)

10. Transportation Service. Transportation includes conveyance services provided to an individual in order to access HIV related services. (5-3-03)

11. Limitations to Services. (5-3-03)

a. Services and individual participant caps will be determined annually based upon available federal and state funding that has been allocated specifically for HIV related services. All services, with the exception of emergency services, must be included in a participant's individual service plan in order to be covered by Ryan White Title II funds. (5-3-03)

b. The HIV related services will not be provided through this program if the services are available through other state or federal programs. (5-3-03)

c. The Department may waive the limitations based on available funding, number of participants, and ability to maintain service throughout the year. (5-3-03)

201. -- 219. (RESERVED)

220. HOW ARE FUNDS FOR THE HIV RELATED SERVICES DISTRIBUTED?

The Department is responsible for the distribution of Ryan White Grant funds. Distribution of funds is based on the needs identified using a periodic needs assessment in each geographic region of Idaho. The amount allocated to each

geographic region will be based upon HIV prevalence, participants served during the previous twelve (12) month period, and results of needs assessment information. (5-3-03)

221. -- 229. (RESERVED)

230. WHAT MEDICATIONS MAY BE PAID FOR THROUGH THE HIV-AIDS DRUG ASSISTANCE PROGRAM (ADAP)?

This program provides Food and Drug Administration (FDA) approved medications prescribed for the treatment of HIV disease to eligible participants. (5-3-03)

231. -- 239. (RESERVED)

240. WHAT HAPPENS IF FALSE INFORMATION IS GIVEN?

Providing false information may cause the Department to: (5-3-03)

01. Discontinue Participation. Discontinue participation within the Department's HIV related services. (5-3-03)

02. Require Benefits Be Repaid. Require benefits received from the Department's HIV related services be repaid. (5-3-03)

03. Refer Information to Authorities. Refer the matter to civil or criminal enforcement authorities. (5-3-03)

241. -- 999. (RESERVED)

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