

# IDAHO ADMINISTRATIVE BULLETIN

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November 5, 1997 -- Volume 97-11

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**THE OFFICE OF THE GOVERNOR**

EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE

**EXECUTIVE ORDER NO. 97-11**

**DESIGNATION OF THE FARMWORKER RESOURCE COMMITTEE AS  
AN ADVISORY COMMITTEE TO THE GOVERNOR  
REPEALS AND RESCINDS EXECUTIVE ORDER NO. 93-07**

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*WHEREAS, Idaho's economic well-being depends in part on the farmworkers, both local and migrant, who are critical to the state's agricultural enterprises; and*

*WHEREAS, a number of local, state, and federal governmental and non-governmental programs provide health, education, safety, housing, employment, spiritual, legal, financial, and other services to this important segment of Idaho's population; and*

*WHEREAS, coordination and cooperation among those entities is important to providing needed services in the most efficient manner possible and to planning for future activities to support Idaho's farmworkers and their families;*

*NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me by the constitution and laws of the State of Idaho, do hereby order:*

- 1. The Farmworker Resource Committee is continued as an advisory body to the Governor and, when necessary, to the Idaho Commission on Hispanic Affairs.*
- 2. State agencies and commissions that provide services or protection to farmworkers and their families shall designate representatives to the committee. Those agencies include the Department of Agriculture, the Department of Labor, the Department of Health and Welfare, the State Department of Education, the Division of Vocational Education, the Division of Vocational Rehabilitation, the Idaho Human Rights Commission, the Industrial Commission, and the Idaho Commission on Hispanic affairs, and any other agency or commission that wishes to be represented on the Farmworker Resource Committee.*
- 3. Local, federal, private, volunteer, community, or other entities that have interests in farmworker issues are encouraged to send representatives to attend meetings of the Farmworker Resource Committee.*
- 4. The responsibilities of the Farmworker Resource Committee include:
  - a. Improving coordination and cooperation among the various public and private agencies and providers that offer services to Idaho's farmworker population.*
  - b. When necessary, making recommendations to the appropriate entities on needed services or ways to improve programs to better meet the needs of Idaho's farmworker population.*
  - c. At least once each year, submitting a written report on activities and recommendations to the Office of the Governor and to the Idaho Commission on Hispanic Affairs.**

*This Executive Order repeals and replaces Executive Order No. 93-07. This Executive Order shall cease to be effective four years after its entry into force.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 2nd day of July in the year of our Lord nineteen hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-first and of the Statehood of Idaho the one hundred seventh.*

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*PHILIP E. BATT*  
*GOVERNOR*

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*PETE T. CENARRUSA*  
*SECRETARY OF STATE*

**THE OFFICE OF THE GOVERNOR**

EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE

**EXECUTIVE ORDER NO. 97-12**

**AUTHORIZING THE ESTABLISHMENT OF A GAMING STUDY COMMITTEE  
PROVIDED AS A SUPPLEMENT TO EXECUTIVE ORDER 97-06**

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*WHEREAS, in 1992 at an Extraordinary Legislative Session the legislature of the State of Idaho adopted and the voters approved H.J.R. No. 4 at the general election that year; and*

*WHEREAS, H.J.R. No. 4 amended Section 20, Article III, of the Constitution of the State of Idaho and clarified that gambling is contrary to public policy in Idaho and is prohibited except for a state lottery, pari-mutuel betting, and bingo and raffle games operated by qualified charitable organizations; and*

*WHEREAS, H.J.R. No. 4 also prohibited any form of casino gambling including, but not limited to, blackjack, craps, roulette, poker, baccarat, keno and slot machines and prohibited the employment of any electronic or electromechanical imitation or simulation of any form of casino gambling; and*

*WHEREAS, certain games of chance are being operated on Idaho Indian reservations that are the subject of dispute as to whether they are authorized pursuant to the Indian Gaming Regulatory Act; and*

*WHEREAS, it is important for the state to promote economic development upon Indian reservations in a manner that is consistent with the public policy of Idaho; and*

*WHEREAS, there has been a trend in recent years toward increased gaming on and off reservations in Idaho which raises extremely important public policy concerns; and*

*WHEREAS, both the Executive Branch and Legislative Branch of Idaho government have recognized the need to study gaming in Idaho;*

*NOW THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, do hereby, by virtue of the authority vested in me by law, order the following:*

- 1. The Gaming Study Committee is hereby established and shall consist of the following representatives to be appointed by the Governor:
  - a. The Lieutenant Governor of the State of Idaho shall be the chairman of the committee.*
  - b. The Coeur d'Alene, Kootenai, Nez Perce, and Shoshone-Bannock Tribes shall each be requested to designate one representative on the committee recognizing that each of these tribes is engaged in significant gaming activities.*
  - c. Two representatives shall be appointed from the Idaho Senate and two representatives shall be appointed from the Idaho House of Representatives.*
  - d. Four Idaho citizens who are knowledgeable and/or concerned about the social and cultural side effects of gaming activities, including one citizen associated with law enforcement, shall be appointed.*
  - e. The offices of the Idaho Governor and Attorney General shall be requested to provide assistance to the committee.*
  - f. Each member of the committee shall have one vote, except that the chairman shall not be entitled to vote.**

- g. *The Shoshone-Paiute Tribes shall designate one member to assist the committee in an advisory capacity. That member shall not be entitled to vote upon motion or recommendation of the committee. The member shall be entitled to voice the Tribes' concerns, question any person or organization who testifies before the committee and submit any information on the Tribes' behalf.*
2. *The committee is established to accomplish the following:*
- a. *The committee is directed to collect information and gain expertise as to the social and economic costs and benefits of gaming activities.*
- b. *The committee is directed to develop informed and thoughtful recommendations with respect to gaming in the State of Idaho and the committee shall proceed in such a manner that this will be the result.*
- c. *Without intending to limit the scope of the committee's recommendations, the committee is urged to offer recommendations regarding the desirable scope of state lottery games and specifically whether the state lottery should be allowed to engage in video gaming activities. The committee is urged to make recommendations regarding the desirable extent of simulcast betting. The committee is also urged to make recommendations regarding state policy toward tribal gaming. It is understood that while the committee does not make legal decisions, the committee may need to be briefed regarding legal issues in order to make informed recommendations.*
- d. *Timely recommendations are extremely important to the state's policy-makers. Therefore, the committee is requested to work as intensively as possible and to report its recommendations to the Governor by November 1, 1997. This will allow for serious review of the recommendations prior to the 1998 Legislative session and will allow review of the recommendations by the 1998 Legislature.*
- e. *The committee shall serve without compensation, but shall be reimbursed for actual travel expenses not to exceed state guidelines.*
- f. *Committee travel and staffing expenses shall be paid by the Idaho Lottery.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at Boise, the Capitol, the 9th day of July, in the year of our Lord nineteen hundred ninety-seven, and of the Independence of the United States of America the two hundred twenty-second, and of the Statehood of Idaho the one hundred eighth.*

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**PHILIP E. BATT**  
**GOVERNOR**

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**PETE T. CENARRUSA**  
**SECRETARY OF STATE**

# THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE

## EXECUTIVE ORDER NO. 97-13

### ESTABLISHING THE IDAHO COMMITTEE ON INDIAN EDUCATION

---

WHEREAS, it is important to recognize and affirm the sovereignty of each of the Indian tribes in Idaho; and

WHEREAS, a positive working relationship between the tribal and state governments to improve the educational success of Idaho Indians benefits the tribes and the entire state of Idaho; and

WHEREAS, representatives of the Nez Perce Tribe, the Coeur d'Alene Tribe, the Kootenai Tribe, the Shoshone-Bannock Tribes, the Shoshone-Paiute Tribes, and the Northwestern Band of the Shoshoni Nation, have worked jointly with the state through the Idaho Committee on Indian Education to set goals and make recommendations for improving the quality of Indian education in Idaho; and

WHEREAS, the goal of the Idaho Committee on Indian Education is to help ensure that all Indian students in Idaho achieve academic success in schools; and

WHEREAS, the committee has recognized the following seven common goals:

1. To help prepare Indian children for future educational experiences by providing early childhood education programs that are culturally, linguistically, and developmentally appropriate;
2. To establish a primary and secondary school environment that respects, maintains and promotes American Indian values, languages, and traditions;
3. To increase recruitment, retention and graduation rates of Indian students in Idaho's colleges and universities and to increase the number of Indian faculty and professional staff at Idaho schools;
4. To encourage Indian parents and tribal leaders to participate in the education of Indian students;
5. To assist in raising the self-esteem and cultural pride of Indian students;
6. To develop comprehensive guidance and counseling programs in Idaho schools that meet the career, education/training, personal and social needs of Indian students and their families; and
7. To expand Adult Basic Education programs to benefit Indians.

NOW THEREFORE, I, PHILIP E. BATT, Governor of the state of Idaho, do hereby, by virtue of the authority vested in me by law, order the following:

1. At the request of the Superintendent of Public Instruction, that the Idaho Committee on Indian Education be established to assist the Idaho State Department of Education in educational issues that affect Idaho Indians.
2. That the committee undertake any studies or evaluations as requested by the Superintendent of Public Instruction.





*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at Boise, the Capitol, the 17th day of July in the year of our Lord nineteen hundred ninety-seven, and of the Independence of the United States of America the two hundred twenty-second, and of the Statehood of Idaho the one hundred and eighth.*

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*PHILIP E. BATT*  
*GOVERNOR*

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*PETE T. CENARRUSA*  
*SECRETARY OF STATE*

**THE OFFICE OF THE GOVERNOR**

EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE

**EXECUTIVE ORDER NO. 97-14**

*AUTHORIZING THE TRANSFER OF FUNDS TO THE DISASTER EMERGENCY ACCOUNT*

---

WHEREAS, on the eighth day of February 1996, the twenty-seventh day of December 1996 and the eighteenth day of May 1997, due to severe flooding in various parts of the state of Idaho; by virtue of the authority in me, as Governor, by Idaho Code Sections 46-601 and 46-1008, I issued proclamations declaring that states of extreme and disaster emergencies existed for all counties in Idaho; and

WHEREAS, tremendous financial obligations and expenses have been and will be incurred by various departments and agencies of the state of Idaho in responding to and assisting in efforts to deal with this extreme flooding emergency; and

WHEREAS, all funds in the Disaster Emergency Account created by Idaho Code Section 46-1005A have or soon will be expended; and

WHEREAS, funds in the general account are available to transfer to the Disaster Emergency Account under the requirements set forth in Idaho Code Section 46-1005A(2)(b); and

WHEREAS, it is my judgment, as Governor of the state of Idaho, that any moneys transferred from the General Fund up to the limits provided below would not be required to support the current year's appropriation of these funds;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

1. The state controller is directed to transfer moneys in the General Fund to the Disaster Emergency Account in such amount and at such times as directed by me or my designee, the Administrator of the Division of Financial Management. In no event shall more than five (5) million dollars be transferred from the General Fund to the Disaster Emergency Account during the current fiscal year;
2. In no event may the revenues made available under this executive order exceed, during any fiscal year, one percent (1%) of the annual appropriation of general account moneys for the fiscal year.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this fourth day of September in the year of our Lord nineteen hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.

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PHILIP E. BATT  
GOVERNOR

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PETE T. CENARRUSA  
SECRETARY OF STATE

**THE OFFICE OF THE GOVERNOR**

EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE

**EXECUTIVE ORDER NO. 97-15**

*ESTABLISHMENT OF THE GOVERNOR'S AFFORDABLE HOUSING ADVISORY TASK FORCE  
REPEALING AND REPLACING EXECUTIVE ORDER 97-04*

---

*WHEREAS, the availability of affordable housing for all Idahoans is important in building strong families and communities, and is critical to Idaho's ongoing economic development; and*

*WHEREAS, the increasing cost of housing, coupled with the reduction in available federal resources, is making both home ownership and rental homes less affordable; and*

*WHEREAS, the Idaho Housing and Finance Association was created by the state of Idaho to provide financing for affordable housing to Idaho's limited-income citizens and to administer federal housing funds and financing programs on behalf of the state; and*

*WHEREAS, the Idaho Department of Commerce assists communities with infrastructure and economic development grants which create a need for affordable housing and in some cases may be used for housing activities; and*

*WHEREAS, cities, counties, local housing authorities, nonprofits, developers, banking institutions and other community and real estate organizations also are concerned with the continuing finance and development of affordable housing; and*

*WHEREAS, a state study of the role each of these organizations play in providing affordable housing and an assessment of how existing affordable housing resources are used are necessary to develop a state affordable housing policy in Idaho and a way to involve the general public in decisions;*

*NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby establish the Governor's Affordable Housing Advisory Task Force as follows:*

**I. PURPOSE**

**A. The Governor's Affordable Housing Advisory Task Force will:**

*Educate itself about the current and projected housing needs within Idaho.*

*Educate itself about the available resources from private industry, government, nonprofit organizations and other sources for meeting Idaho's affordable housing needs.*

*Assess the effectiveness of how existing scarce resources are being used in addressing Idaho's housing needs, identifying opportunities for improvement.*

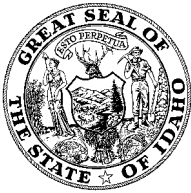
*Evaluate a variety of options to leverage market resources, remove regulatory barriers, consolidate programs, and place decision-making authority at appropriate levels.*

*Evaluate appropriate roles for the various state, federal and local government agencies involved in providing affordable housing funds in order to develop a coordinated state affordable housing policy.*

*Prepare a final report of recommendations to the Governor as soon as possible but no later than October 31, 1997.*

**II. COMPOSITION AND STAFFING**

- A. *The Governor's Affordable Housing Advisory Task Force will be composed of no more than 17 members. Members will be appointed by the Governor and will serve at his pleasure.*
- B. *The Idaho Housing Finance Association and the Idaho Department of Commerce will provide staff and administrative support to the Council.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-fifth day of September in the year of our Lord nineteen hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.*

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*PHILIP E. BATT*  
*GOVERNOR*

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*PETE T. CENARRUSA*  
*SECRETARY OF STATE*

**THE OFFICE OF THE GOVERNOR**

EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE

**EXECUTIVE ORDER NO. 97-16**

**ESTABLISHMENT OF THE IDAHO ALCOHOL AND DRUG-FREE WORKPLACE POLICY  
REPLACING EXECUTIVE ORDER 93-08**

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*WHEREAS, the State of Idaho has a vital interest in maintaining a safe, healthy, and efficient working environment for its employees, clients and the public; and*

*WHEREAS, employees impaired by alcohol or other drugs during work hours pose safety and health risks not only to themselves but to others; and*

*WHEREAS, employees who use illegal drugs, whether on or off duty, are generally less productive, less reliable and prone to greater absenteeism than employees who do not use drugs; and*

*WHEREAS, the use of illegal drugs by state employees is inconsistent with the law-abiding behavior expected of all citizens, and with the special trust placed in such employees as servants of the public; and*

*WHEREAS, the use of alcohol or drugs by state employees in certain positions of sensitivity poses a special risk to public safety and the effective enforcement of the law; and*

*WHEREAS, the use of alcohol or drugs becomes a matter of concern to the State of Idaho when it interferes with job performance, conduct, attendance, or safety of state employees; and*

*WHEREAS, the State of Idaho, as an employer, has a responsibility to taxpayers to ensure that state functions are performed efficiently and without undue risk to the people of the state; and*

*WHEREAS, the State of Idaho, as an employer, is also concerned with the well-being of its employees and should encourage the identification and rehabilitation of employees with alcohol or drug problems;*

*NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Idaho, do hereby order the following Idaho Alcohol and Drug-Free Workplace Policy to become effective immediately for all employees of the State of Idaho:*

- 1. The consumption of alcohol on the job is prohibited. Employees may not work if their performance is impaired by the use of alcohol;*
- 2. The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited, and if occurring on state property or during an employee's hours of work, demands immediate corrective action;*
- 3. Each state agency shall provide employees with information on Idaho's Alcohol and Drug-Free Workplace Policy, as well as information on the state's Employee Assistance Plan;*
- 4. Violations of the Idaho Alcohol and Drug-Free Workplace Policy will be cause for management/supervisor intervention and may result in referral to treatment, including participation in the Employee Assistance Program. It shall be the policy of the State of Idaho to direct its efforts toward rehabilitation whenever reasonable;*
- 5. Any intervention steps taken upon a violation of the Idaho Alcohol and Drug-Free Policy must be consistent with all due process requirements and other constitutional rights of state employees;*
- 6. The privacy rights of employees are important. Any intervention steps taken upon a violation of the*

*Idaho Alcohol and Drug-Free Workplace Policy, including a referral for treatment, counseling or rehabilitation programs, shall include procedures to protect the confidentiality of treatment records as well as the employee's identity;*

7. *The director of each agency shall report quarterly, the first of January, April, July, and October, to the Personnel Commission any violations of the Idaho Alcohol and Drug-Free Workplace Policy and the corrective actions taken. "Quarterly" means the report shall be filed the first day of January, April, July, and October. The report shall, to the extent practicable, protect the confidentiality of the employee involved, but shall describe the nature of the employee's position;*
8. *The Personnel Commission shall annually compile information regarding violations of this policy and the corrective actions taken and report this information by June 30 to the Governor. Any information so reported shall be reported in a manner to avoid revealing the identity of the employees involved. The Personnel Commission, when it compiles this data, shall do so by type of position so as to determine whether there is an alcohol or drug problem in any "safety-sensitive" positions;*
9. *Whenever there is an alcohol or drug problem in a "safety-sensitive" position, it is critical that the problem be addressed aggressively. For the purpose of this policy, a "safety-sensitive" position is one in which:*
  - a. *The duties involve a greater-than-normal level of trust for, responsibility for, or impact on the health and safety of the employee or others; and*
  - b. *Errors in judgment, inattentiveness or diminished coordination, dexterity, or composure while performing the duties could clearly result in mistakes that would endanger the health and safety of the employee or others; and*
  - c. *Employees in these positions work with such independence that it cannot be safely assumed that mistakes such as those described in subsection (b) could be prevented by a supervisor or another employee;*
10. *In the event the Personnel Commission finds an alcohol or drug problem in any agency or classification, it shall report that to the Governor; and the agency, working in conjunction with the Personnel Commission and the Governor, shall develop a program to respond to the problem. This program may include alcohol or drug testing for employees in safety-sensitive classifications where such a problem has been documented;*
11. *All state agencies responsible to the Governor are directed, and all other public entities are requested, to assist the Personnel Commission in discharging its responsibilities under this order;*
12. *Nothing in this order shall be deemed to abrogate any existing policy or directive relating to alcohol or drug use by state employees or to affect any existing or future state employee disciplinary proceeding; and*
13. *Where federal laws or regulations require the state to implement more stringent regulations than those contained in this policy, those federal regulations and procedures supersede and/or augment this policy.*

*This Executive Order shall cease to be effective four years after its entry into force.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-ninth day of September in the year of our Lord nineteen hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.*

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*PHILIP E. BATT*  
*GOVERNOR*

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*PETE T. CENARRUSA*  
*SECRETARY OF STATE*

**IDAPA 07 - DIVISION OF BUILDING SAFETY**  
**07.01.01 - RULES GOVERNING ELECTRICAL INSPECTION TAGS**

**DOCKET NO. 07-0101-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 3, 1997 Idaho Administrative Bulletin, Volume 97-9, pages 2 through 4.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Gary L. Malmen, Bureau Chief, Electrical Bureau, Division of Building Safety, 277 N. 6th Street, Suite 101, P.O. Box 83720, Boise, Idaho 83720-0028, (208) 334-2183.

DATED this 24th day of September, 1997.

Connie J Mumm  
Division of Building Safety  
277 N. 6th Street, Suite 100  
P.O. Box 83720  
Boise, ID 83720-4801  
(208) 334-3950/fax (208) 334-2683

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**IDAPA 07**  
**TITLE 01**  
**Chapter 01**

**RULES GOVERNING ELECTRICAL INSPECTION TAGS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-9, September 3, 1997,  
pages 2 through 4.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**



**IDAPA 07 - DIVISION OF BUILDING SAFETY**  
**07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING**

**DOCKET NO. 07-0104-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 3, 1997 Idaho Administrative Bulletin, Volume 97-9, pages 5 through 8.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Gary L. Malmen, Bureau Chief, Electrical Bureau, Division of Building Safety, 277 N. 6th Street, Suite 101, P.O. Box 83720, Boise, Idaho 83720-0028, (208) 334-2183.

DATED this 24rd day of September, 1997.

Connie J Mumm  
Division of Building Safety  
277 N. 6th Street, Suite 100  
P.O. Box 83720  
Boise, ID 83720-4801  
(208) 334-3950/fax (208) 334-2683

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**IDAPA 07**  
**TITLE 01**  
**Chapter 04**

**RULES GOVERNING ELECTRICAL SPECIALTY LICENSING**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-9, September 3, 1997,  
pages 5 through 8.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 07 - DIVISION OF BUILDING SAFETY**

**07.01.08 - RULES GOVERNING APPEALS**

**DOCKET NO. 07-0108-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 3, 1997 Idaho Administrative Bulletin, Volume 97-9, pages 9 through 11.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Gary L. Malmen, Bureau Chief, Electrical Bureau, Division of Building Safety, 277 N. 6th Street, Suite 101, P.O. Box 83720, Boise, Idaho 83720-0028, (208) 334-2183.

DATED this 24rd day of September, 1997.

Connie J Mumm  
Division of Building Safety  
277 N. 6th Street, Suite 100  
P.O. Box 83720  
Boise, ID 83720-4801  
(208) 334-3950/fax (208) 334-2683

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**IDAPA 07  
TITLE 01  
Chapter 08**

**RULES GOVERNING APPEALS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-9, September 3, 1997,  
pages 9 through 11.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**

**DOCKET NO. 16-0101-9704**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Idaho Code Section 67-5221(1), notice is hereby given that this agency has proposed rulemaking. The action is authorized by Idaho Code Sections 39-105 and 39-107. In addition, certain proposed changes in this rulemaking are mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 60 Fed. Reg. 54,990, 54,993 (1995) and 61 Fed. Reg. 30,570-75 (1995).

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

**Tuesday, December 9, 1997 at 7:00 pm**  
**Division of Environmental Quality, Conference Center**  
**1410 N. Hilton, Boise, Idaho**

The hearing site will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five days' notice. For arrangements, contact the undersigned at (208) 373-0418.

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

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

The Idaho Department of Health and Welfare (Department) annually updates the Rules for the Control of Air Pollution in Idaho, IDAPA 16.01.01, to maintain conformance with the EPA's regulations as well as fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act. This proposed rule incorporates by reference federal regulations revised as of July 1, 1997, which include the Maximum Achievable Control Technology (MACT) Standards promulgated as National Emissions Standards for Hazardous Air Pollutants (NESHAPS). This proposed rule also deletes certain publications previously listed as documents incorporated by reference.

Negotiated rulemaking was not conducted because time is of the essence to adopt a state rule consistent with EPA's mandate in order to receive EPA approval of Idaho's proposed Title V Operating Permit Program.

After consideration of public comments, the Department intends to recommend that the Board of Health and Welfare adopt the final proposal as a temporary and pending rule.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rule, contact Tim Teater at (208)373-0502.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone can submit written comment regarding this proposed rule. All written comments must be received by the undersigned on or before December 10, 1997.

DATED this 5th day of November, 1997.

Paula Junae Saul  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton  
Boise, Idaho 83706-1255  
Fax No. (208)373-0481

**TEXT OF DOCKET NO. 16-0101-9704**

**107. INCORPORATIONS BY REFERENCE.**

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

a. All federal publications: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 at (202) 783-3238; and (5-1-94)

b. All documents herein incorporated by reference: (7-1-97)

i. Central Office, Division of Environmental Quality, Department of Health and Welfare, 1410 N. Hilton, Boise, Idaho 83706 at (208) 373-0502. (7-1-97)

ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

~~a. Standard Industrial Classification Manual, Executive Office of the President, Office of Management and Budget, 1987. (5-1-94)~~

~~ba. Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Appendix W to Part 51--Guideline on Air Quality Models. 61 Fed. Reg. 41,838-41,894 (August 12, 1996) (to be codified at 40 CFR Parts 51 and 52) 40 CFR Parts 51 and 52 revised as of July 1, 1997. (3-1-97)F(\_\_\_\_)~~

~~e. Interim Procedures for Evaluating Air Quality Models, EPA, September 1984. (5-1-94)~~

~~d. Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. Section 792 (1988). (5-1-94)~~

~~e. Federal Power Act, 16 U.S.C.A. Sections 791a et seq. (West 1985 & Supp. 1993). (5-1-94)~~

~~f. Idaho Forestry Act, Idaho Code Sections 38-101 et seq. (1977 & Supp. 1993). (5-1-94)~~

~~g. Idaho Environmental Protection and Health Act, Idaho Code Sections 39-101 through 130 (1995). (7-1-97)~~

~~h. Idaho Administrative Procedure Act, Idaho Code Sections 67-5201 through 5292 (Supp. 1995). (7-1-97)~~

~~i. Fire Hazard Reduction Law, Idaho Code Sections 38-401 through 414 (1977 & Supp. 1993). (5-1-94)~~

~~j. IDAPA 20.04.01, Rules of the Department of Lands, "Rules Pertaining to Forest Fire Protection," (1993). (5-1-94)~~

~~k. IDAPA 16.05.03, Rules of the Department of Health and Welfare, Title 05, Chapter 03, "Rules Governing Contested Cases and Declaratory Rulings," (1994). (7-1-97)~~

- ~~l.~~ IDAPA 16.01.06, Rules of the Department of Health and Welfare, Title 01, Chapter 06, "Solid Waste Management Rules and Standards," (1993). (5-1-94)
- ~~m.~~ Implementation Plan for the Control of Air Pollution in the State of Idaho (SIP), Division of Environmental Quality, Department of Health and Welfare, ~~March 1994~~ November 1996. (5-1-94)(    )
- ~~n.~~ Atomic Energy Act of 1954, 42 U.S.C.A. Sections 2014 (e), (z) and (aa) (West 1973 & Supp. 1993). (5-1-94)
- ~~o.~~ Procedures Manual for Air Pollution Control, Idaho Air Quality Bureau, Division of Environment, Department of Health and Welfare, September 1986. (5-1-94)
- ~~p.~~ "Ringelmann Smoke Chart", Manual Evaluation of Visible Emissions, Idaho Department of Health and Welfare, Division of Environment, Air Quality Bureau, Sections 6.1-6.10, September 1977. (5-1-94)
- ~~q.~~ National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 1996. (3-1-97)F(    )
- ~~r.~~ Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, Subsection a, 40 CFR Part 51.304(a), revised as of July 1, 1996. (3-1-97)F(    )
- ~~s.~~ Approval and Promulgation of Implementation Plans, 40 CFR Part 52, revised as of July 1, 1996. (3-1-97)F(    )
- ~~t.~~ Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 1996. (3-1-97)F(    )
- ~~u.~~ Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 1996. (3-1-97)F(    )
- ~~v.~~ Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 1996. (3-1-97)F(    )
- ~~w.~~ National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 1996. (3-1-97)F(    )
- ~~x.~~ National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 1996. (3-1-97)F(    )
- ~~y.~~ Permits, 40 CFR Part 72, revised as of July 1, 1996. (3-1-97)F(    )
- ~~z.~~ Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 1996. (3-1-97)F(    )
- ~~aa.~~ Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 1996. (3-1-97)F(    )
- ~~bb.~~ Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1996). (3-1-97)F(    )
- ~~cc.~~ Emergency Episode Air Pollution Criteria, Division of Environmental Quality, Idaho Department of Health and Welfare, April 1972. See Appendix A, shown at the end of this chapter. (3-1-97)T
- ~~dd.~~ National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations. 61 Fed. Reg. 34,140-34,200 (July 1, 1996) (to be codified at 40 CFR Part 63). (3-1-97)T
- ~~ee.~~ National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins. 61 Fed. Reg. 46,906-85 (September 5, 1996) (to be codified at 40 CFR Part 63). (3-1-97)T

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

**16.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS**

**DOCKET NO. 16-0102-9703**

**NOTICE OF PENDING AND TEMPORARY RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 1998 Idaho State Legislature for final approval. The temporary rule is effective October 1, 1997. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fourth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the pending rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Idaho Code Sections 67-5224 and 67-5226, notice is hereby given that the Board has adopted a pending/temporary rule. The action is authorized by Idaho Code Sections 39-105, 39-107, and 39-3601 et seq.

**DESCRIPTIVE SUMMARY:** The rule was adopted by the Board, upon the recommendation of the Department of Health and Welfare, Division of Environmental Quality (Department), because the rule responds to the needs of the regulated community while protecting the public health and environment. A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the May 7, 1997 Idaho Administrative Bulletin, Volume 97-5, pages 44 through 46.

The Department received no public comments concerning the proposed rule. The rule has been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 97-5, May 7, 1997, pages 44 through 46. The rulemaking record is maintained at the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Idaho Code Section 67-5226(1)(c), the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit. The people of the state of Idaho will benefit from the rule change in that the Board will have more time to thoroughly consider Outstanding Resource Water nominations before making a recommendation to the next regular session of the Legislature.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rule, contact Mark Shumar at (208) 373-0502.

DATED this 5th day of November, 1997.

Paula Junae Saul  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton  
Boise, Idaho 83706-1255

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**IDAPA 16  
TITLE 01  
Chapter 02**

**WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS**

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

**This rule is being adopted as temporary as of October 1, 1997.**

**The original text was published in the Idaho Administrative Bulletin,  
Volume 97-5, May 7, 1997, pages 44 through 46.**

**This rule has been adopted as Final by the Agency and is now pending review  
by the 1998 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.01.19 - SMALL COMMUNITIES IMPROVEMENT PROGRAM RULES**  
**DOCKET NO. 16-0119-9601**

**NOTICE OF PENDING AND TEMPORARY RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 1998 Idaho State Legislature for final approval. The temporary rule is effective October 1, 1997. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fourth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the pending rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Idaho Code Sections 67-5224 and 67-5226, notice is hereby given that the Board has adopted a pending/temporary rule. The action is authorized by Idaho Code Sections 39-105, 39-107, and 39-129(4).

**DESCRIPTIVE SUMMARY:** The rule was adopted by the Board, upon recommendation of the Department of Health and Welfare, Division of Environmental Quality (Department), because the rule responds to the needs of the regulated community while protecting the public health and environment. A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 97-5, May 7, 1997, pp. 48 through 54.

The Department received comments from the public concerning the proposed rule. The Department has revised IDAPA 16.01.19 Section 012 as provided in Idaho Code Section 67-5227. The Department's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public, is included in the rulemaking record maintained by the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706.

IDAPA 16.01.19 Sections 000, 001, 002, 003, 010, 011, 013, 014, 015, and 016 have been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 97-5, May 7, 1997, pp. 48 through 54 and, therefore, have not been republished with this Notice.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Idaho Code Section 67-5226(1)(c), the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit to small communities. The rule implements a statute which enables small communities to enter into voluntary agreements with the Department extending regulatory compliance deadlines.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rule, contact Liisa Itkonen at (208)373-0502.

Dated this 5th day of November, 1997.

Paula Junae Saul  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton  
Boise, Idaho 83706-1255

**IDAPA 16**  
**TITLE 01**  
**Chapter 19**

**SMALL COMMUNITIES IMPROVEMENT PROGRAM RULES**

**There are substantive changes  
from the proposed rule text.**

**Only those sections that have changed from the  
original proposed text are printed in this  
Bulletin following this notice.**

**The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-5, May 7, 1997,  
pages 48 through 54.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature  
for final adoption.**

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**TEXT OF DOCKET NO. 16-0119-9601**

**012. DEPARTMENT ASSISTANCE IN PREPARING ENVIRONMENTAL PRIORITIES PLAN.**

01. Identification of Noncompliance. When requested to do so by a small community, the Department shall help the small community identify: (10-1-97)T

a. Every environmental requirement to which the small community's operations are subject; and (10-1-97)T

b. The small community's current and anticipated future violations of those requirements. (10-1-97)T

02. Imminent Threat. Where the Department review described in Subsection 012.01 above identifies any violations or circumstances which may present an imminent and substantial endangerment to, has caused or is causing actual serious harm to, or presents a serious threat to, public health, welfare, or the environment, the small community shall immediately address the violation in a manner that abates the endangerment or harm and reduces the threat. (10-1-97)T

03. Request for Assistance. When there is one or more federal environmental mandate applicable to drinking water, municipal waste disposal, municipal sewage or wastewater disposal or treatment, or air pollution abatement services provided by the small community and which poses an existing or future compliance problem for the small community, a small community may submit to the Department a resolution passed by the governing body of the small community requesting the Department's assistance in preparing an Environmental Priorities Plan. (10-1-97)T

04. Scope of Assistance. To the extent possible based on available resources, and the number of current



applicants, the Department's assistance to the small community, under Subsection 012.03, shall include helping the small community to: (10-1-97)T

- a. Access available risk assessment resources; (10-1-97)T
- b. Provide public information and education, obtain public involvement, and elicit input from community residents and other interested parties; (10-1-97)T
- c. Coordinate with other agencies and local governments; and (10-1-97)T
- d. Identify other available resources. (10-1-97)T

05. Selection among Communities. Where required by resource limitations, the Department's selection of small communities to which the Department will provide assistance in preparing an Environmental Priorities Plan will be based on the good faith demonstrated by the small communities. Good faith may be demonstrated by candor with the Department and efforts to comply with federal environmental mandates. Measures of a small community's efforts to comply may include: (10-1-97)T

- a. Cooperativeness and inclusion of other units of local government in the process; (10-1-97)T
- action; b. Attempts to comply or a request for compliance assistance prior to the initiation of an enforcement (10-1-97)T
- c. Prompt correction of known violations; (10-1-97)T
- d. Willingness to remediate harm to public health, welfare or the environment; (10-1-97)T
- e. Readiness to enter into a written and enforceable compliance agreement and schedule; (10-1-97)T
- f. Preparation of a community capital budget plan; (10-1-97)T
- g. Achievement of Gem Community Certification, as demonstrated by completion of: Gem Community Training; Community Profile; Long-Term Plan, including Infrastructure Improvement Plan, Business Retention/Expansion Plan, Economic Diversification Plan, and Organizational Plan; One-Year Action Plan; ~~and~~ Community Visit Test; and written documentation verifying current certification as authorized by the Idaho Department of Commerce; (10-1-97)T
- h. Preparation of a comprehensive plan; (10-1-97)T
- i. Preparation of feasibility studies; (10-1-97)T
- j. Submittal of grant applications; or (10-1-97)T
- k. Holding of bond elections. (10-1-97)T

06. IRDC Consultation. The Department encourages small communities to consult with the Idaho Rural Development Council (IRDC) for support and assistance in considering options and accessing resources to address cumulative mandates generally, and to prepare an Environmental Priorities Plan in particular. Where resource limitations require the Department's selection among small communities pursuant to Subsection 012.05, the Department or the communities may consult with the Board of the IRDC during the selection process. Also, the Department may consult with the IRDC on other program related matters. (10-1-97)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.01 - RULES GOVERNING ELIGIBILITY FOR MEDICAID FOR FAMILIES AND CHILDREN**  
**DOCKET NO. 16-0301-9704**  
**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective October 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-209(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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 rule implements a waiver deleting the 100-hour rule requirement in determining unemployment/underemployment in a two-parent family and adds new alien rules according to Public Law 105-33.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 26, 1997.

DATED this 5th day of November, 1997.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 334-5548 fax

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**TEXT OF DOCKET NO. 16-0301-9704**

**203. ~~(RESERVED). CITIZENSHIP AND LEGAL NON-CITIZEN CRITERIA.~~**

~~Individuals must be citizens of the United States (U.S.) or be legal non-citizens. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Only the groups listed in Subsections 203.01 through 203.07 are legal non-citizens. Individuals must provide proof of citizenship or proof of legal non-citizen status. An adult family member must sign a declaration, under penalty of perjury, attesting to citizenship or legal non-citizen status.~~

~~(7-1-97)T~~

01. ~~Permanent Residents. An individual admitted to the U.S. for permanent residence.~~ (7-1-97)T

- 02. ~~Refugees. A refugee admitted under 207 of the INA. (7-1-97)T~~
- 03. ~~Asylee. Individuals granted asylum under 208 of the INA. (7-1-97)T~~
- 04. ~~Deportee. Individuals whose deportation is withheld under 243 of the INA. (7-1-97)T~~
- 05. ~~Parolee. Individual granted parole for at least one (1) year under 212(d)(5) of the INA. (7-1-97)T~~
- 06. ~~Conditional Entrant. An individual granted conditional entry under 203(a)(7) of the INA. (7-1-97)T~~
- 07. ~~Battered Immigrants. A battered immigrant meeting certain requirements. (7-1-97)T~~

**204. LEGAL NON-CITIZEN REQUIREMENTS AND LIMITATIONS.**

~~Legal non-citizens, who are otherwise eligible, are subject to requirements and limitations listed in Subsections 204.01 through 204.07. (7-1-97)T~~

~~01. Permanent Residents. Permanent residents, living in the U.S. prior to August 22, 1996, can get Medicaid without time limits. (7-1-97)T~~

~~02. Veterans. Regardless of entry date, honorably discharged veterans, whose discharge reason is other than alienage, can get Medicaid without time limits. This includes the veteran's spouse and unmarried dependent children. (7-1-97)T~~

~~03. Armed Forces Members. Regardless of entry date, members of the U.S. Armed Forces, who are on full time active duty, can get Medicaid without time limits. This includes the member's spouse and unmarried dependent children. (7-1-97)T~~

~~04. Refugees. Regardless of entry date, refugees can get Medicaid for five (5) years from the date of entry. (7-1-97)T~~

~~05. Asylees. Regardless of entry date, asylees can get Medicaid for five (5) years from the date asylum is granted. (7-1-97)T~~

~~06. Deportees. Regardless of entry date, individuals whose deportation is withheld can get Medicaid for five (5) years from the date deportation is withheld. (7-1-97)T~~

~~07. Parolees, Conditional Entrants, and Battered Immigrants. Parolees, Conditional Entrants, and Battered Immigrants, living in the U.S. prior to August 22, 1996, can get Medicaid without time limits. (7-1-97)T~~

**204. CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT.**

~~The participant must be a citizen or national of the U.S. or an eligible legal non-citizen. (8-22-96)T~~

~~01. Eligible Legal Non-Citizens Admitted Before August 22, 1996. Eligible legal non-citizens are persons lawfully admitted to the U.S. for permanent residence. Eligible legal non-citizens are also persons lawfully living in the U.S. under color of law. The person can get Medicaid without time limits. (8-22-96)T~~

~~02. Eligible Legal Non-Citizens Admitted August 22, 1996 and Later. The participant must be a citizen of the U.S. or a legal non-citizen. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Only legal non-citizens listed in Subsection 204.03 are legal non-citizens. The participant must provide proof of citizenship or proof of legal non-citizen status. The participant must sign a declaration, under penalty of perjury, attesting to citizenship or legal non-citizen status. The parent or legal guardian must sign for a child or a participant with a legal guardian. (8-22-96)T~~

~~03. Definitions for Legal Non-Citizen Requirement. (8-22-96)T~~

~~a. A permanent resident is a person admitted to the U.S. for permanent residence. (8-22-96)T~~

- b. A refugee is a person admitted under 207 of the INA. (8-22-96)T
- c. An asylee is a person granted asylum under 208 of the INA. (8-22-96)T
- d. A deportee is a person with deportation withheld under 243 of the INA. (8-22-96)T
- e. A conditional entrant is a person granted conditional entry under 302(a)(7) of the INA. (8-22-96)T
- f. A battered immigrant is an immigrant meeting certain INS entry conditions. (8-22-96)T
04. Legal Non-Citizen Requirements and Limitations. Legal non-citizens, who are otherwise eligible, are subject to the requirements and limitations in Subsections 204.04.a. through 204.04.i. (8-22-96)T
- a. Permanent residents entering the U.S. August 22, 1996 or later, and having forty (40) quarters of Social Security coverage, can get Medicaid without time limits after they live in the U.S. for five (5) years. (8-22-96)T
- b. Regardless of entry date, honorably discharged veterans, whose discharge reason is not alienage, can get Medicaid without time limits. This includes the veteran's spouse and unmarried dependent children. (8-22-96)T
- c. Regardless of entry date, active duty members of the U.S. Armed Forces, who are not on active duty for training only, can get Medicaid without time limits. This includes the participant's spouse and unmarried dependent children. (8-22-96)T
- d. Regardless of entry date, refugees can get Medicaid for seven (7) years from their entry date. (8-22-96)T
- e. Regardless of entry date, asylees can get Medicaid for seven (7) years from the date asylum is granted. (8-22-96)T
- f. Regardless of entry date, individuals whose deportation is withheld can get Medicaid for seven (7) years from the date deportation is withheld. (8-22-96)T
- g. Cuban and Haitian Entrants. Cuban and Haitian entrants, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, can get Medicaid for seven (7) years from the date the status is assigned. (8-22-96)T
- h. Amerasians. Non-citizens, admitted as Amerasians, can get Medicaid for seven (7) years from the date of entry into the United States. (8-22-96)T
- i. American Indians born in Canada to whom the provisions of Section 289 of the Immigration and nationality Act apply, and members of certain Indian tribes on United States borders, are eligible legal non-citizens. (8-22-96)T
05. Verifying Legal Non-Citizen Status. A participant's legal non-citizen status must be verified through the INS automated Alien Status Verification Index (ASVI). If INS reports the participant's status cannot be verified through ASVI, secondary proof is required before Medicaid can be based on legal non-citizen status. (8-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**413. LOW INCOME FAMILIES WITH CHILDREN.**

Families with minor children in the home, who would be AFDC eligible if the program was in effect, are eligible if non-financial, financial, and the conditions listed in Subsections 413.01 through 413.04 are met. (7-1-97)T

01. Living with a Relative. A child must live in a home with an adult caretaker who is related to the child by blood, marriage, or adoption. (7-1-97)T

02. Dependent Child. A dependent child is a child under eighteen (18) years of age or, if over eighteen (18) years of age, is expected to graduate from high school by the nineteenth (19th) birthday. (7-1-97)T

03. Deprivation. The dependent child must be deprived. Deprivation is the lack of, or interruption in parental care, guidance and support ordinarily received from one (1) or both parents. Deprivation is caused by continued absence, incapacity which is expected to last at least thirty (30) days, death, or the unemployment/underemployment of the principal wage earner (PWE) parent. An incapacitated parent must cooperate with a plan for training, employment or medical treatment. ~~A PWE is unemployed/underemployed if the PWE is working less than one hundred (100) hours per month.~~ Deprivation based on unemployment or underemployment exists if the family meets financial requirements. If the receipt of unemployment benefits causes financial ineligibility under this coverage group, family members may qualify for Medicaid under FPG coverage groups. ~~(7-1-97)T~~(7-1-97)T

04. One Hundred Eighty-five Percent (185%) Test. The family is ineligible for Medicaid when total gross income exceeds one hundred eighty-five percent (185%) of the monthly need standard. (7-1-97)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO**  
**DOCKET NO. 16-0304-9705**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective September 22, 1996, July 1, 1997 and October 1, 1997.

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

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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:** There will be two new categories of eligible legal non-citizens added to the rules. The categories are: legal non-citizens granted status as Cuban and Haitian entrants and legal non-citizens admitted as Amerasian immigrants.

The definition of cooperation by non-custodial parents in establishing paternity and obtaining support has been modified to specify that the individual must provide the first and last name of the alleged/non-custodial parent and two other pieces of specified information.

The Food Stamp gross and net income standards and allotment amounts will increase effective October 1, 1997.

Allowances paid to children with spina bifida born to Viet Nam veterans under P.L. 104-204 are excluded as income and resources in determining eligibility for the Food Stamp program.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 26, 1997.

DATED this 5th day of November, 1997.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 334-5548 fax

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**TEXT OF DOCKET NO. 16-0304-9705**

**204. CITIZENSHIP OR SATISFACTORY IMMIGRATION STATUS.**

A person must be a U. S. resident to get Food Stamps. A person must be a U.S. citizen or qualified legal noncitizen to get Food Stamps. To be eligible for Food Stamps, legal noncitizens must meet a category in Subsection 204.01.

(9-1-97)T

01. Eligible Immigration Status for Legal Noncitizens.

(9-1-97)T

a. Refugees. Refugees admitted under Section 207 of the Immigration and Nationality Act are eligible for Food Stamps for five (5) years from the date the refugee status is assigned.

(9-1-97)T

b. Asylees. Asylees admitted under Section 208 of the Immigration and Nationality Act are eligible for Food Stamps for five (5) years from the date the asylee status is assigned.

(9-1-97)T

c. Deportation Withheld. Individuals whose deportation is withheld under Section 241(b)(3) and 243(h) of the Immigration and Nationality Act are eligible for Food Stamps for five (5) years from the date the deportation was withheld.

~~(9-1-97)T~~(9-22-96)T

d. Cuban and Haitian Entrants. Cuban and Haitian entrants, admitted under section 501(e) of the Refugee Education Assistance Act of 1980, are eligible for Food Stamps for five (5) years from the date the status is assigned.

(9-22-96)T

e. Amerasians. Amerasians, admitted under Section 584(c)(1) of Public Law 100-202, are eligible for Food Stamps for five (5) years from the date of entry.

(9-22-96)T

f. A permanent resident legal noncitizen admitted under the Immigration and Nationality Act before August 22, 1996, who has forty (40) quarters of work. A quarter worked by the legal noncitizen's parent while the legal noncitizen was under age eighteen (18) and a quarter worked by the legal noncitizen's spouse during marriage if the legal noncitizen remains married to the spouse or the spouse is deceased can be counted as a quarter of work for the legal noncitizen. Any quarter after January 1, 1997 in which legal noncitizen received any Federal means tested benefit is not counted as a quarter of work.

(9-1-97)T

g. A permanent resident legal noncitizen admitted under the Immigration and Nationality Act on or after August 22, 1996, who has lived in the United States for five years since obtaining permanent resident status and who has forty (40) quarters of work.

(9-1-97)T

h. Veterans. Veterans honorably discharged for a reason other than citizen status. This includes the veteran's spouse and unmarried dependent children.

(9-1-97)T

i. Members of the U.S. Armed Forces. Active duty members of the U.S. Armed Forces who is not on active duty for training only. This includes the member's spouse and unmarried dependent children.

(9-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**278. COOPERATION IN ESTABLISHMENT OF PATERNITY AND OBTAINING SUPPORT.**

A natural or adoptive parent or other individual living with and exercising parental control over a minor child who has an absent parent must cooperate in establishing paternity for the child and obtaining support for the child and herself. Cooperation is defined in Subsection 278.01 and 278.02.

(7-1-97)T

01. Providing All Known Information. Cooperation includes but is not limited to providing all known information to identify and locate the absent parent. At a minimum, the first and last name of the absent parent and at least two (2) of the following pieces of information must be provided:

~~(7-1-97)T~~(7-1-97)T

a. Birth Date.

(7-1-97)T

- b. Social Security Number. (7-1-97)T
- c. Current address. (7-1-97)T
- d. Current phone number. (7-1-97)T
- e. Current employer. (7-1-97)T
- f. Make, model, and license number of any motor vehicle owned by the absent parent. (7-1-97)T
- g. Names, phone numbers and addresses of the parents of the absent parent. (7-1-97)T

02. Established Case for Participant. After CSS has established a case for a participant, all child support payments must be sent directly to CSS. After CSS has established a case, cooperation includes forwarding support payments received directly from the absent parent to CSS. (7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**382. RESOURCES EXCLUDED BY FEDERAL LAW.**

Resources listed below are excluded by Federal law: (6-1-94)

- 01. P.L. 91-646. Reimbursements under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970. (6-1-94)
- 02. P.L. 92-203. The Alaska Native Claims Settlement Act. (6-1-94)
- 03. P.L. 93-134 As Amended By P.L. 103-66. Effective January 1, 1994, interest of individual Indians in trust or restricted lands. (6-1-94)
- 04. P.L. 93-288 as amended by P.L. 100-707. Payments from Disaster Relief and Emergency Assistance. (6-1-94)
- 05. P.L. 93-531. Relocation assistance to Navajo and Hopi tribal members. (6-1-94)
- 06. P.L. 94-114. The submarginal lands held in trust by the U.S. for certain Indian tribal members. (6-1-94)
- 07. P.L. 94-189. The Sac and Fox Indian Claims Agreement. (6-1-94)
- 08. P.L. 94-540. Funds to the Grand River Band of Ottawa Indians. (6-1-94)
- 09. P.L. 95-433. The Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission. (6-1-94)
- 10. P.L. 96-420. The Passamaquoddy Tribe and Penobscot Nation funds paid under the Maine Indian Claims Settlement Act of 1980. (6-1-94)
- 11. P.L. 97-403. Payments to the Turtle Mountain Band of Chippewas, Arizona. (6-1-94)
- 12. P.L. 97-408. Payments to the Blackfeet, Gros Ventre and Asiniboine Tribes, Montana and the Papago Tribe, Arizona. (6-1-94)
- 13. P.L. 98-64 & P.L. 97-365. Up to two thousand dollars (\$2,000) of any per capita payment, and any



- purchases made with such payment, from funds held in trust by the Secretary of the Interior. (6-1-94)
14. P.L. 98-123. Funds awarded to members of the Red Lake Band of Chippewa Indians. (6-1-94)
15. P.L. 98-500. Funds provided to heirs of deceased Indians under the Old Age Assistance Claims Settlement Act, except for per capita shares in excess of two thousand dollars (\$2,000). (6-1-94)
16. P.L. 99-264. Payments to the White Earth Band of Chippewa Indian Tribe, Michigan. (6-1-94)
17. P.L. 99-346. Payments to the Saginaw Chippewa Indian Tribe, Michigan. (6-1-94)
18. P.L. 99-498 & P.L. 102-523 Student Loans. Financial assistance funded in whole or in part under Title IV of the Higher Education Act. (6-1-94)
19. P.L. 101-41. Payments to the Puyallup Tribe of Indians, Washington. (6-1-94)
20. P.L. 101-277. Payments to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Florida and the Independent Seminole Indians of Florida. (6-1-94)
21. P.L. 101-426. Payments from the Radiation Exposure Compensation Act. (6-1-94)
22. P.L. 102-237. Resources of any mixed household member who gets TAFI or SSI. (7-1-97)T
23. P.L. 103-286. Effective 8-1-94, payments made to victims of Nazi persecution. (1-1-95)
24. P.L. 103-436. Payments to the Confederated Tribes of the Colville Reservation for the Grand Coulee Dam Settlement. (7-1-97)
25. P.L. 104-204. Payments to children with spina bifida born to Vietnam veterans. (10-1-97)T
- ~~256.~~ Civil Liberties Act of 1988. Restitution payments to persons of Japanese ancestry who were evacuated, relocated and interned during World War II as a result of government action. These payments are also excluded when paid to the statutory heirs of deceased internees. (6-1-94)
- ~~267.~~ SSI Payments Under Zebley v. Sullivan Ruling. Retroactive lump sum SSI payments, for childhood disability, paid as a result of the Zebley v. Sullivan ruling. The payments are excluded resources for six (6) months from receipt. (6-1-94)
- ~~278.~~ BIA Education Grant. Bureau of Indian Affairs (BIA) Higher Education Grant Program. (6-1-94)
- ~~289.~~ WIC. Benefits from the Women, Infants, and Children (WIC) Program. (6-1-94)
- ~~2930.~~ JTPA. Payments from the Job Training Partnership Act (JTPA) (6-1-94)
- ~~301.~~ Energy Assistance. Payments from Federal, state, or local energy assistance, including insulation and weatherization payments. (6-1-94)
- ~~312.~~ HUD Payments. HUD retroactive subsidy payments for tax and utilities are excluded the month received and the next month. (6-1-94)
- ~~323.~~ Agent Orange Settlement Fund. Product liability payments, made by Aetna Life and Casualty from the Agent Orange Settlement Fund. Effective January 1, 1989. (6-1-94)
- ~~334.~~ Federal EITC. Federal Earned Income Tax Credit (EITC) is excluded for the month of receipt and the following month. Federal EITC is excluded for twelve (12) months from receipt if the household member receives EITC while participating in the Food Stamp program. The exclusion continues only while the household participates in the Food Stamp program without a break, for up to twelve (12) months. The month of receipt is the

first month of the exclusion. (1-1-95)

**(BREAK IN CONTINUITY OF SECTIONS)**

**406. INCOME EXCLUDED BY FEDERAL LAW.**

Income listed below is excluded by Federal law when computing Food Stamp eligibility: (6-1-94)

01. P.L. 91-646. Reimbursements under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970. (6-1-94)

02. P.L. 92-203. Funds from the Alaska Native Claims Settlement Act. (6-1-94)

03. P.L. 93-113 RSVP. Payments under Title I and Title II, "Retired Senior Volunteer Program" (RSVP), the Foster Grandparents Program and the Domestic Volunteer Services Act of 1973. (6-1-94)

04. P.L. 93-134 as amended by P.L. 103-66. Effective January 1, 1994, up to two thousand dollars (\$2,000) per calendar year of payments derived from interest of individual Indians in trust or restricted lands. (6-1-94)

05. P.L. 93-288, P.L. 100-707 Disaster Relief. Payments from Disaster Relief and Emergency Assistance Disaster Relief Act. (6-1-94)

06. P.L. 93-531. Relocation assistance to Navajo and Hopi tribal members. (6-1-94)

07. P.L. 94-114. The submarginal lands held in trust by the U.S. for certain Indian tribal members. (6-1-94)

08. P.L. 94-189. Funds from the Sac and Fox Indian Claims Agreement. (6-1-94)

09. P.L. 94-540. Funds to the Grand River Band of Ottawa Indians. (6-1-94)

10. P.L. 95-433. Funds to the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission. (6-1-94)

11. P.L. 96-420. Funds to the Passamaquoddy Tribe and Penobscot Nation funds paid under the Maine Indian Claims Settlement Act of 1980. (6-1-94)

12. P.L. 97-300 JTPA. All earned and unearned income received from the Job Training Partnership Act (JTPA) of 1982, except for earned income received from taking part in on-the-job training programs. (6-1-94)

13. P.L. 97-365 & P.L. 98-64. Up to two thousand dollars (\$2,000) of any per capita payment, and any purchases made with such payment, from funds held in trust by the Secretary of the Interior. (6-1-94)

14. P.L. 97-403. Funds to the Turtle Mountain Band of Chippewas, Arizona. (6-1-94)

15. P.L. 97-408. Funds to the Blackfeet, Gros Ventre, and Assiniboine Tribes, Montana. Funds to the Papago Tribe, Arizona. (6-1-94)

16. P.L. 98-123. Funds to the Red Lake Band of Chippewa Indians. (6-1-94)

17. P.L. 98-500. Funds from the Old Age Assistance Claims Settlement Act, provided to heirs of deceased Indians, except for per capita shares over two thousand dollars (\$2,000). (6-1-94)

18. P.L. 99-264. Funds to the White Earth Band of Chippewa Indians, Minnesota. (6-1-94)

19. P.L. 99-346. Funds to the Saginaw Chippewa Indian Tribe, Michigan. (6-1-94)
20. P.L. 100-175. Effective October 1, 1987, payments received by persons age 55 and older under Title V, "Senior Community Service Employment Program." (6-1-94)
21. P.L. 100-435 WIC. Benefits from the Women, Infants, and Children (WIC) Program. (6-1-94)
22. P.L. 100-435. Payments or reimbursements for work related or child care expenses made under an employment, education, or training program under Title IV-A of the Social Security Act after September 19, 1988. (6-1-94)
23. P.L. 100-435. Payments made to a JSAP participant for work, training, or education-related expenses or for dependent care. (6-1-94)
24. P.L. 101-41. Funds to the Puyallup Tribe of Indians, Washington. (6-1-94)
25. P.L. 101-277. Payments to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Florida, and the Independent Seminole Indians of Florida. (6-1-94)
26. P.L. 101-426. Payments made under the Radiation Exposure Compensation Act. (6-1-94)
27. P.L. 101-508. At-risk child care payments. (6-1-94)
28. P.L. 101-610 and P.L. 103-82. Allowances, earnings and payments to persons participating in programs under the National and Community Services Act. The exclusion applies to all payments made under the AmeriCorps Program except earnings to individuals participating in an on-the-job training program equivalent to those under Section 204(5), Title II, of the Job Training Partnership Act. Those earnings are counted if the person is nineteen (19) years or older, or under nineteen (19) but not under parental control. (8-1-94)
29. P.L. 102-237. Amounts needed for attainment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act. (6-1-94)
30. P.L. 102-325. Educational income authorized under the BIA student assistance programs and under Title IV of the Higher Education Amendments of 1992. (6-1-94)
31. P.L. 103-286. Effective 08-01-94, payments made to victims of Nazi persecution. (1-1-95)
32. P.L. 103-436. Payments to the Confederated Tribes of the Colville Reservation for the Grand Coulee Dam Settlement. (7-1-97)
33. P.L. 104-204. Payments to children with spina bifida born to Vietnam veterans. (10-1-97)T
334. Agent Orange Settlement Fund. Product liability payments, made by Aetna Life and Casualty from the Agent Orange Settlement Fund. Any other fund for the settlement of Agent Orange liability litigation. (6-1-94)
345. Civil Liberties Act of 1988. Restitution payments to persons of Japanese ancestry who were evacuated, relocated and interned during World War II as a result of government action. These payments are also excluded when paid to the statutory heirs of deceased internees. (6-1-94)
356. Negative Utility Allowance. Negative utility payments from HUD and FmHA. (8-1-94)
367. Energy Assistance. Payments from Federal energy assistance, including insulation and weatherization payments. (9-22-96)T
378. SSI Payments Under Zebley v. Sullivan Ruling. Retroactive lump sum SSI payments, for childhood disability, paid as a result of the Zebley v. Sullivan ruling. The payments are excluded resources for six (6) months

from receipt.

(6-1-94)

389. VISTA Payments. Payments under Title I, VISTA, University Year for Action and Urban Crime Prevention Program to volunteers who were receiving Food Stamps or public assistance when they joined the program. Payments to volunteers who were getting an income exclusion for a VISTA or other Title I allowance before the Food Stamp Act of 1977. Temporary breaks in participation do not alter the exclusion. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**532. GROSS INCOME LIMIT.**

Households exceeding the gross income limit for the household size are not eligible, unless they are categorically eligible or have an elderly or disabled member. Categorically eligible households are exempt from gross and net income limits. All members of categorically eligible households must be approved for TAFI, AABD, or SSI. Households with elderly or disabled household members are exempt from the gross income limit. Gross income limits are listed in Table 532.

TABLE 532 - GROSS INCOME LIMIT	
HOUSEHOLD SIZE	GROSS INCOME LIMIT
1	<del>\$839</del> <u>855</u>
2	<del>\$1,123</del> <u>1,150</u>
3	<del>\$1,407</del> <u>1,445</u>
4	<del>\$1,690</del> <u>1,739</u>
5	<del>\$1,974</del> <u>2,034</u>
6	<del>\$2,258</del> <u>2,329</u>
7	<del>\$2,542</del> <u>2,623</u>
8	<del>\$2,826</del> <u>2,918</u>
Each Added Person	Add <del>\$284</del> <u>295</u>

(7-1-97)F(10-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**549. NET INCOME LIMIT TEST.**

Categorically eligible households do not have a net income limit. Households with an elderly or disabled household member must meet the net income limit. For all other households, compare the net income to the net income eligibility limit for that size household. This comparison must be completed for initial eligibility and when income changes. When the household income changes to a different income eligibility limit, apply the different limit. If the net income of the household exceeds the net income limit the household is not eligible for Food Stamps, unless categorically eligible. Net income limits are listed in Table 549.

<b>TABLE 549 - NET INCOME LIMITS</b>	
<b>HOUSEHOLD SIZE</b>	<b>NET INCOME LIMIT</b>
1	\$ <del>645</del> <u>658</u>
2	\$ <del>864</del> <u>885</u>
3	\$ <del>1082</del> <u>1,111</u>
4	\$ <del>1,300</del> <u>1,338</u>
5	\$ <del>1,519</del> <u>1,565</u>
6	\$ <del>1,737</del> <u>1,791</u>
7	\$ <del>1,955</del> <u>2,018</u>
8	\$ <del>2,174</del> <u>2,245</u>
Each Added Person Add \$ <del>219</del> <u>227</u>	

(10-1-96)(10-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**581. MAXIMUM FOOD STAMPS BY HOUSEHOLD SIZE.**

The maximum Food Stamp amount by household size is listed in Table 581.

<b>TABLE 581 - MAXIMUM FOOD STAMPS BY HOUSEHOLD SIZE</b>	
<b>HOUSEHOLD SIZE</b>	<b>MAXIMUM FOOD STAMPS</b>
1	\$ <del>120</del> <u>122</u>
2	\$ <del>220</del> <u>224</u>
3	\$ <del>315</del> <u>321</u>
4	\$ <del>400</del> <u>408</u>
5	\$ <del>475</del> <u>485</u>
6	\$ <del>570</del> <u>582</u>
7	\$ <del>630</del> <u>643</u>
8	\$ <del>720</del> <u>735</u>
Each Added Person Add \$ <del>90</del> <u>92</u>	

(10-1-96)(10-1-97)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED**  
**DOCKET NO. 16-0305-9704**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective August 22, 1996.

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

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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:** Revises legal non-citizen eligibility and adds eligible groups as required under Public Law 105-33.

Repeals rules on drug addict and alcoholic eligibility.

Adds that persons fleeing a felony prosecution or violating probation or parole are not eligible for Aid to the Aged, Blind and Disabled (AABD) cash payments.

Adds that persons convicted in federal or state court for fraudulently misrepresenting residency to obtain benefits from two or more states at the same time are not eligible for AABD cash payments for ten years.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 26, 1997.

DATED this 5th day of November, 1997.

Sherri Kovach  
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DHW - Division of Legal Services  
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**TEXT OF DOCKET NO. 16-0305-9703**

**102. CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT.**

The participant must be a citizen or national of the U.S. or an eligible legal non-citizen.

(8-22-96)T

01. Eligible Legal Non-Citizen Admitted Before August 22, 1996. ~~They~~ Participants must be: (8-22-96)T
- a. ~~A~~ Legal non-citizens lawfully admitted for permanent residence and getting AABD on August 22, 1996. ~~His legal non-citizen status must be redetermined under Subsection 102.02 by a date to be set by Congress.~~ (8-22-96)T(8-22-96)T
  - b. Legal non-citizens of any age who are blind or disabled under the SSI disability criteria and lawfully admitted for permanent residence. (8-22-96)T
  - c. American Indians born in Canada to whom Section 289 of the INA applies or legal non-citizens who are members of Indian tribes. (8-22-96)T
  - d. Legal non-citizens who started AABD or SSI before January 1, 1979. (8-22-96)T
02. Eligible Citizen and Legal Non-Citizen Status August 22, 1996 and Later. A participant must be a citizen of the U.S. or an eligible legal non-citizen. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. ~~Eligible legal non-citizens are listed in Subsection 102.03.~~ The participant must provide proof of citizenship or proof of legal non-citizen status. The participant must sign a declaration, under penalty of perjury, attesting to citizenship or legal non-citizen status. The parent or legal guardian must sign for a child or a participant with a legal guardian. Only the groups of legal non-citizens listed in Subsections 102.02.a. through 102.02.h. may be eligible. (8-22-96)T(8-22-96)T
- ~~03. Definitions for Legal Non-Citizen Requirement.~~ (8-22-96)T
- a. ~~A Lawful permanent residents with forty (40) quarters of work not receiving AABD on August 22, 1996, who have lived in the U. S. for five (5) years is a person admitted to the U.S. for permanent residence.~~ (8-22-96)T(8-22-96)T
  - b. ~~A Refugee is a person~~ admitted under Section 207 of the INA, for seven (7) years from the date refugee status is assigned. (8-22-96)T(8-22-96)T
  - c. ~~An Asylee is a person~~ granted asylum under Section 208 of the INA, for seven (7) years from the date asylee status is granted. (8-22-96)T(8-22-96)T
  - d. ~~A Deportee is a person~~ with deportation withheld under Section 243 of the INA, for seven (7) years from the date deportation is withheld. (8-22-96)T(8-22-96)T
  - e. ~~A battered immigrant is an immigrant meeting certain INS entry conditions. Veterans honorably discharged for a reason other than alienage. This includes the veteran's spouse and unmarried dependent children.~~ (8-22-96)T(8-22-96)T
  - f. Active duty members of the U.S. Armed Forces who are not on active duty for training only. This includes the active duty member's spouse and unmarried dependent children. (8-22-96)T
  - g. Cuban and Haitian entrants admitted under Section 501(e) of the Refugee Education Assistance Act of 1980 for seven (7) years from the date the status is assigned. (8-22-96)T
  - h. Amerasians admitted under Section 584(c)(1) of Public Law 100-202 for seven (7) years from the date of entry. (8-22-96)T
04. Legal Non-Citizen Requirements and Limitations. Legal non-citizens, who are otherwise eligible, are subject to the requirements and limitations in Subsections 102.04.a. through 102.04.f. (8-22-96)T
- a. ~~Permanent residents entering the U.S. August 22, 1996 or later, and having forty (40) quarters of Social Security coverage, can get AABD without time limits after they live in the U.S. for five (5) years.~~ (8-22-96)T

b. ~~Regardless of entry date, honorably discharged veterans, whose discharge reason is not alienage, can get AABD without time limits. This includes the veteran's spouse and unmarried dependent children. (8-22-96)T~~

e. ~~Regardless of entry date, active duty members of the U.S. Armed Forces who are not on active duty for training only can get AABD without time limits. This includes the participant's spouse and unmarried dependent children. (8-22-96)T~~

d. ~~Regardless of entry date, refugees can get AABD for five (5) years from their entry date. (8-22-96)T~~

e. ~~Regardless of entry date, asylees can get AABD for five (5) years from the date asylum is granted. (8-22-96)T~~

f. ~~Regardless of entry date, individuals whose deportation is withheld can get AABD for five (5) years from the date deportation is withheld. (8-22-96)T~~

053. Verifying Legal Non-Citizen Status. A participant's legal non-citizen status must be verified through the INS automated Alien Status Verification Index (ASVI). If INS reports the participant's status cannot be verified through ASVI, secondary proof is required before AABD can be based on legal non-citizen status. (8-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**158. -- 19965. (RESERVED).**

**166. FUGITIVE FELON OR PROBATION OR PAROLE VIOLATOR.**

A participant is ineligible to receive AABD for any month during which he is fleeing to avoid prosecution for a felony, fleeing to avoid custody or confinement after a felony conviction, or violating a federal or state condition of probation or parole. (8-22-96)T

**167. FRAUDULENT MISREPRESENTATION OF RESIDENCY.**

A participant is ineligible for AABD for ten (10) years if he was convicted in a federal or state court of having fraudulently misrepresented residence to get TAFI, Food Stamps or Medicaid from two (2) or more states at the same time. (8-22-97)T

**168. -- 199. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**~~405. (RESERVED). FINANCIAL NEED AND GRANT AMOUNT FOR DRUG ADDICTS AND ALCOHOLICS.~~**

~~SSI or SSDI (Social Security Disability Insurance) continues to count as income for financial need and grant amount when suspended or stopped because of drug addiction or alcoholism. (7-1-96)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**605. CITIZENSHIP AND LEGAL NON-CITIZEN REQUIREMENT.**

The participant must be a citizen or national of the U.S. or an eligible legal non-citizen. (8-22-96)T



01. Eligible Legal Non-Citizens Before August 22, 1996. Eligible legal non-citizens are persons lawfully admitted to the U.S. for permanent residence. ~~Eligible legal non-citizens are also, persons lawfully living in the U.S. under color of law, persons of any age who are blind or disabled under the SSI disability criteria and lawfully admitted for permanent residence. American Indians born in Canada to whom Section 289 of the INA applies and certain legal non-citizens who are members of an Indian Tribe. The person~~ These legal non-citizens may be eligible for ~~can get~~ Medicaid without time limits. (8-22-96)F(8-22-96)T

02. Eligible ~~Citizen and~~ Legal Non-Citizens Status August 22, 1996 and Later. A participant must be a citizen of the U.S. or an eligible legal non-citizen. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. ~~Only legal non-citizens listed in Subsections 605.03.a. through 605.03.f. are legal non-citizens.~~ The participant must provide proof of citizenship or proof of legal non-citizen status. The participant must sign a declaration, under penalty of perjury, attesting to citizenship or legal non-citizen status. The parent or legal guardian must sign for a child or a participant with a legal guardian. Only the groups of legal non-citizens listed in Subsections 605.02.a. through 605.02.j. may be eligible. (8-22-96)F(8-22-96)T

03. Definitions for Legal Non-Citizen Requirement. (8-22-96)F

a. ~~A Lawful permanent residents with forty (40) quarters of work, not receiving Medicaid on August 22, 1996, who have lived in the United States for five (5) years is a person admitted to the U.S. for permanent residence.~~ A Lawful permanent residents with forty (40) quarters of work, not receiving Medicaid on August 22, 1996, who have lived in the United States for five (5) years is a person admitted to the U.S. for permanent residence. (8-22-96)F(8-22-96)T

b. ~~A Refugee is a person admitted under Section 207 of the INA, for seven (7) years from the date refugee status is assigned.~~ A Refugee is a person admitted under Section 207 of the INA, for seven (7) years from the date refugee status is assigned. (8-22-96)F(8-22-96)T

c. ~~An Asylee is a person granted asylum under Section 208 of the INA, for seven (7) years from the date asylee status is granted.~~ An Asylee is a person granted asylum under Section 208 of the INA, for seven (7) years from the date asylee status is granted. (8-22-96)F(8-22-96)T

d. ~~A Deportee is a person with deportation withheld under Section 243 of the INA, for seven (7) years from the date deportation is withheld.~~ A Deportee is a person with deportation withheld under Section 243 of the INA, for seven (7) years from the date deportation is withheld. (8-22-96)F(8-22-96)T

e. Veterans honorably discharged for a reason other than alienage. This includes the veteran's spouse and unmarried dependent children. (8-22-96)T

f. Active duty members of the U.S. Armed Forces who are not on active duty for training only. This includes the active duty member's spouse and unmarried dependent children. (8-22-96)T

eg. ~~A Conditional entrants is a person granted conditional entry under 302(a)(7) of the INA.~~ A Conditional entrants is a person granted conditional entry under 302(a)(7) of the INA. (8-22-96)F(8-22-96)T

fh. ~~A Battered immigrant is an immigrant meeting certain INS entry conditions admitted under Sections 204(a)(1)(A) or 204(a)(1)(B) of the INA and such immigrants whose deportation is suspended under Section 244(a)(3) of the INA and battered immigrant's children.~~ A Battered immigrant is an immigrant meeting certain INS entry conditions admitted under Sections 204(a)(1)(A) or 204(a)(1)(B) of the INA and such immigrants whose deportation is suspended under Section 244(a)(3) of the INA and battered immigrant's children. (8-22-96)F(8-22-96)T

i. Cuban and Haitian entrants admitted under section 510(e) of the Refugee Education Assistance Act of 1980 for seven (7) years from the date entrant status is assigned. (8-22-96)T

j. Amerasians admitted under Section 584(c)(1) of Public Law 100-202 for seven (7) years from the date of entry. (8-22-96)T

04. Legal Non-Citizen Requirements and Limitations. ~~Legal non-citizens, who are otherwise eligible, are subject to the requirements and limitations in Subsections 605.04.a. through 605.04.f.~~ (8-22-96)F

a. ~~Permanent residents entering the U.S. August 22, 1996 or later, and having forty (40) quarters of Social Security coverage, can get Medicaid without time limits after they live in the U.S. for five (5) years.~~ (8-22-96)F

b. ~~Regardless of entry date, honorably discharged veterans, whose discharge reason is not alienage, can get Medicaid without time limits. This includes the veteran's spouse and unmarried dependent children.~~

~~(8-22-96)T~~

e. ~~Regardless of entry date, active duty members of the U.S. Armed Forces who are not on active duty for training only can get AABD without time limits. This includes the participant's spouse and unmarried dependent children.~~

~~(8-22-96)T~~

d. ~~Regardless of entry date, refugees can get Medicaid for five (5) years from their entry date.~~

~~(8-22-96)T~~

e. ~~Regardless of entry date, asylees can get Medicaid for five (5) years from the date asylum is granted.~~

~~(8-22-96)T~~

f. ~~Regardless of entry date, individuals whose deportation is withheld can get Medicaid for five (5) years from the date deportation is withheld.~~

~~(8-22-96)T~~

053. ~~Verifying Legal Non-Citizen Status. A participant's legal non-citizen status must be verified through the INS automated Alien Status Verification Index (ASVI). If INS reports the participant's status cannot be verified through ASVI, secondary proof is required before AABD can be based on legal non-citizen status.~~

~~(8-22-96)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**648. PERSON DENIED SSI FOR FRAUDULENT RESIDENCY.**

A person denied SSI or AABD for ten (10) years following a conviction for misrepresenting residency to get SSI in two (2) or more states at the same time is not disqualified from Medicaid.

~~(1-1-97)T(8-22-96)T~~

**649. FUGITIVE FELON OR PROBATION OR PAROLE VIOLATOR.**

A person denied SSI or AABD because of the ~~SSI~~ prohibition against payment to fugitive felons and probation and parole violators is not disqualified from Medicaid.

~~(1-1-97)T(8-22-96)T~~

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO**  
**DOCKET NO. 16-0308-9702**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1997 and October 1, 1997.

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

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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 Balanced Budget Act of 1997 requires that Amerasians and Cuban/Haitians be included in those legal non-citizens who, for up to five years from entry to the United States, could potentially be eligible for TAFI. This rule is effective with the inception of TAFI, July 1, 1997.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 26, 1997.

DATED this 5th day of November, 1997.

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**TEXT OF DOCKET NO. 16-0308-9702**

**100. TAFI ELIGIBILITY.**

To be eligible for TAFI, an individual must sign an application; provide verification requested by the Department; negotiate and sign a PRC; cooperate in establishing and obtaining support; complete work activities including job search; and meet all other personal responsibility and financial criteria. ~~(7-1-97)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**131. CITIZENSHIP AND LEGAL NON-CITIZEN CRITERIA.**

Eligible individuals must be citizens of the United States or be legal non-citizens. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Only the groups of legal non-citizens listed in Subsections 132.01 through 132.09 may be eligible. (7-1-97)T

01. Permanent Residents with Forty (40) Quarters of Work. Lawful permanent residents with forty (40) quarters of work. (7-1-97)T

02. Veterans. Veterans honorably discharged for a reason other than citizen status. This includes the veteran's spouse and unmarried dependent children. (7-1-97)T

03. Members of the U.S. Armed Forces. Active duty members of the U.S. Armed Forces, who are not on active duty for training only. This includes the active duty member's spouse and unmarried dependent children. (7-1-97)T

04. Refugees. Refugees admitted under Section 207 of the Immigration and Nationality Act, for five (5) years from the date refugee status is assigned. (7-1-97)T

05. Asylees. Asylees admitted under Section 208 of the Immigration and Nationality Act, for five (5) years from the date asylee status is assigned. (7-1-97)T

06. Deportation Withheld. Individuals whose deportation has been withheld under Section 243(h) of the Immigration and Nationality Act, for five (5) years from the date the deportation was withheld. (7-1-97)T

07. Battered Immigrants. Battered immigrants admitted under Section 204(a)(1)(A), 204(a)(1)(B) or such immigrants whose deportation is suspended under 244(a)(3) of the Immigration and Nationality Act. (7-1-97)T

08. Conditional Entrants. Conditional entrants admitted under Section 203(a)(7) of the Immigration and Nationality Act. (7-1-97)T

09. Permanent Residents Admitted Before August 22, 1996. A non-citizen lawfully admitted to the United States for permanent residence before August 22, 1996. (7-1-97)T

10. Cuban and Haitian Entrants. Cuban and Haitian entrants as defined in section 501(e) of the Refugee Education Assistance Act of 1980, for five (5) years from the date the status is assigned. (7-1-97)T

11. Amerasians. Non-citizens admitted as Amerasians, for five (5) years from the date of entry into the United States. (7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**148. COOPERATION RESPONSIBILITY.**

For the family to be eligible, a parent, or a caretaker relative included in the grant, must cooperate with the Department to identify and locate the non-custodial parent, establish paternity, and establish, modify and enforce the child support order, unless good cause exists. The parent, or caretaker relative included in the grant, must provide at a minimum, unless good cause exists, the first and last name of the non-custodial parent and two (2) of the following pieces of information: birth date; SSN; current address; current phone number; current employer; make, model and license number of any motor vehicle owned by the absent parent; and names, phone numbers and addresses of the parents of the non-custodial parent. (7-1-97)T(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**215. EXCLUDED INCOME.**

- The types of income listed in Subsections 215.01 through 215.33 are excluded. (7-1-97)T
- 01. Supportive Services. Supportive services payments. (7-1-97)T
  - 02. Work Reimbursements. Work-related reimbursements. (7-1-97)T
  - 03. Child's Earned Income. Earned income of a dependent child, who is attending school. (7-1-97)T
  - 04. Child Support. Child support payments assigned to the State and non-recurring child support payments received in excess of that amount. (7-1-97)T
  - 05. Loans. Loans with a signed, written repayment agreement. (7-1-97)T
  - 06. Third Party Payments. Payments made by a person directly to a third party on behalf of the family. (7-1-97)T
  - 07. Money Gifts. Money gifts, up to one hundred dollars (\$100), per person per event, for celebrations typically recognized with an exchange of gifts. (7-1-97)T
  - 08. TAFI. Retroactive TAFI grant corrections. (7-1-97)T
  - 09. Social Security Overpayment. The amount withheld for a Social Security overpayment. (7-1-97)T
  - 10. Interest Income. Interest posted to a bank account. (7-1-97)T
  - 11. Tax Refunds. State and federal income tax refunds. (7-1-97)T
  - 12. EITC Payments. EITC payments. (7-1-97)T
  - 13. Disability Insurance Payments. Taxes withheld and attorney's fees paid to secure disability insurance payments. (7-1-97)T
  - 14. Sales Contract Income. Taxes and insurance costs related to sales contracts. (7-1-97)T
  - 15. Foster Care. Foster care payments. (7-1-97)T
  - 16. Adoption Assistance. Adoption assistance payments. (7-1-97)T
  - 17. Food Programs. Commodities and food stamps. (7-1-97)T
  - 18. Child Nutrition. Child nutrition benefits. (7-1-97)T
  - 19. Elderly Nutrition. Elderly nutrition benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965. (7-1-97)T
  - 1981. 20. Low Income Energy Assistance. Benefits paid under the Low Income Energy Assistance Act of (7-1-97)T
  - 9101. 21. Home Energy Assistance. Home energy assistance payments under Public Law 100-203, Section (7-1-97)T
  - 22. Utility Reimbursement Payment. Utility reimbursement payments. (7-1-97)T

- 23. Housing Subsidies. Housing subsidies. (7-1-97)T
- 24. Housing And Urban Development (HUD) Interest. Interest earned on HUD family self-sufficiency escrow accounts established by Section 544 of the National Affordable Housing Act. (7-1-97)T
- 25. Native American Payments. Payments authorized by law made to people of Native American ancestry. (7-1-97)T
- 26. Educational Income. Educational income, except that AmeriCorps living allowances, stipends, and AmeriCorps Education Award minus attendance costs are earned income. (7-1-97)T
- 27. Work Study Income of Student. College work study income. (7-1-97)T
- 28. VA Educational Assistance. VA Educational Assistance. (7-1-97)T
- 29. Senior Volunteers. Senior volunteer program payments to individual volunteers under the Domestic Volunteer Services Act of 1979, 42 U.S.C. Sections 4950 through 5085. (7-1-97)T
- 30. Relocation Assistance. Relocation assistance payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (7-1-97)T
- 31. Disaster Relief. Disaster relief assistance paid under the Disaster Relief Act of 1974 and aid provided under any federal statute for a President-declared disaster. Comparable disaster assistance provided by states, local governments, and disaster assistance organizations. (7-1-97)T
- 32. Radiation Exposure Payments. Payments made to persons under the Radiation Exposure Compensation Act. (7-1-97)T
- 33. Agent Orange. Agent Orange settlement payments. (7-1-97)T
- 34. Spina Bifida. Spina bifida allowances paid to children of Vietnam veterans. (10-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**251. WORK INCENTIVE TABLE.**

Work Incentive Table 251 is used in the calculation of the grant amount for families with earned income.

WORK INCENTIVE TABLE 251	
NUMBER OF FAMILY MEMBERS	MONTHLY AMOUNT
1	\$276 <u>292</u>
2	\$276 <u>292</u>
3	\$346 <u>367</u>
4	\$417 <u>441</u>
5	\$487 <u>516</u>
6	\$557 <u>591</u>
7	\$628 <u>666</u>
8	\$698 <u>741</u>

WORK INCENTIVE TABLE 251	
NUMBER OF FAMILY MEMBERS	MONTHLY AMOUNT
9	\$ <del>769</del> <u>815</u>
10	\$ <del>839</del> <u>890</u>
OVER 10 PERSONS	ADD \$ <del>70</del> <u>75</u> EACH

(7-1-97)F(10-1-97)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0309-9712**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

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

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

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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 Governor's Medicaid reform initiative 4.B instructs the Division of Medicaid to expand services to include free-standing psychiatric facilities (IMDs) for children under the age of 21. These rules establish that Medicaid will cover IMD services. In addition the rules establish medical necessity criteria, length of stay criteria, prior authorization requirements, plan of care requirements, exclusions, provider qualification, record keeping requirements, utilization review requirements and reimbursement methodology for all psychiatric hospital services.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect the public health, safety, and welfare, as well as conferring a benefit, and compliance with deadlines in amendments to governing law or federal programs.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Pam Mason at (208) 334-5795.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 26, 1997.

DATED this 5th day of November, 1997.

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**TEXT OF DOCKET NO. 16-0309-9712**

**076. -- 0798. (RESERVED).**

**079. INPATIENT PSYCHIATRIC HOSPITAL SERVICES.**

Pursuant to the philosophy and principles governing children's mental health services in Chapter 24, Title 16, Idaho



Code, the Department will pay for medically necessary in-patient psychiatric hospital services in a free standing psychiatric hospital (IMD) or psychiatric unit of a general hospital for recipients under the age of twenty-one (21). Recipients must have a DSM IV diagnosis with substantial impairment in thought, mood, perception or behavior. Admissions must be prior-authorized by the Department or its designee or, during non-business hours, authorized on a retrospective basis. (1-1-98)T

01. Medical Necessity Criteria. Both severity of illness and intensity of services criteria must be met for admission to an IMD or psychiatric unit of a general hospital. (1-1-98)T

a. Severity of illness criteria. The child must meet one (1) of the following criteria related to the severity of his psychiatric illness: (1-1-98)T

i. Is currently dangerous to self as indicated by at least one (1) of the following: (1-1-98)T

(1) Has actually made an attempt to take his own life in the last seventy-two (72) hours (details of the attempt must be documented); or (1-1-98)T

(2) Has demonstrated self-mutilative behavior within the past seventy-two (72) hours (details of the behavior must be documented); or (1-1-98)T

(3) Has a clear plan to seriously harm himself, overt suicidal intent, and lethal means available to follow the plan (this information can be from the child or a reliable source and details of the child's plan must be documented); or (1-1-98)T

(4) A mental health professional has information from the child or a reliable source that the child has a current plan, specific intent, or recurrent thoughts to seriously harm himself and is at significant risk to making an attempt to carry out the plan without immediate intervention (details must be documented); or (1-1-98)T

ii. Child is actively violent or aggressive and exhibits homicidal ideation or other symptoms which indicate he is a probable danger to others as indicated by one (1) of the following: (1-1-98)T

(1) The child has actually engaged in behavior harmful or potentially harmful to others or caused serious damage to property which would pose a serious threat of injury or harm to others within the last twenty-four (24) hours (description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to the present); or (1-1-98)T

(2) The child has made threats to kill or seriously injure others or to cause serious damage to property which would pose a threat of injury or harm to others and has effective means to carry out the threats (details of threats must be documented); or (1-1-98)T

(3) A mental health professional has information from the child or a reliable source that the child has a current plan, specific intent, or recurrent thoughts to seriously harm others or property and is at significant risk of making the attempt without immediate intervention (details must be documented); or (1-1-98)T

iii. Child is gravely impaired as indicated by at least one (1) of the following criteria: (1-1-98)T

(1) The child has such limited functioning that his physical safety and well being are in jeopardy due to his inability for basic self-care, judgment and decision making (details of the functional limitations must be documented); or (1-1-98)T

(2) The acute onset of psychosis or severe thought disorganization or clinical deterioration has rendered the child unmanageable and unable to cooperate in non-hospital treatment (details of the child's behaviors must be documented); or (1-1-98)T

(3) There is a need for treatment, evaluation or complex diagnostic testing where the child's level of functioning or communication precludes assessment and/or treatment in a non-hospital based setting, and may require close supervision of medication and/or behavior. (1-1-98)T

b. Intensity of service criteria. The child must meet all of the following criteria related to the intensity of services needed to treat his mental illness: (1-1-98)T

i. It is documented by the Regional Mental Health Authority that less restrictive services in the community do not exist or do not meet the treatment or diagnostic needs of the child, or the child has been unresponsive to treatment at a less intensive level of care. The services considered, tried, and/or needed must be documented; and (1-1-98)T

ii. The services provided in the hospital can reasonably be expected to improve the child's condition or prevent further regression so that inpatient services will no longer be needed; and (1-1-98)T

iii. Treatment of the child's psychiatric condition requires services on an inpatient basis, including twenty-four (24) hour nursing observation, under the direction of a psychiatrist. The child requiring this treatment must not be eligible for independent passes or unit passes without observation or being accompanied by hospital personnel or a responsible other. (1-1-98)T

c. Exceptions. The requirement to meet intensity of service criteria may be waived for first time admissions if severity of illness is met and the physician is unable to make a diagnosis or treatment decision while the child is in his current living situation. The waiver of the intensity of services requirement can be for no longer than forty-eight (48) hours and is not waivable for repeat hospitalizations. (1-1-98)T

02. Exclusions. If a child meets one (1) or more of the following criteria, Medicaid reimbursement will be denied: (1-1-98)T

a. The child is unable to actively participate in an outpatient psychiatric treatment program solely because of a major medical condition, surgical illness or injury; or (1-1-98)T

b. The child demonstrates anti-social or criminal behavior or has criminal or legal charges against him and does not meet the severity of illness or intensity of service criteria; or (1-1-98)T

c. The child has anti-social behaviors or conduct problems that are a danger to others but are not attributable to a mental illness (DSM IV) with substantial impairment in thought, mood or perception; or (1-1-98)T

d. The child has a primary diagnosis of mental retardation and the primary treatment need is related to the mental retardation; or (1-1-98)T

e. The child lacks a place to live and/or family supports and does not meet severity of illness and intensity of service criteria; or (1-1-98)T

f. The child has been suspended or expelled from school and does not meet severity of illness and intensity of service criteria; or (1-1-98)T

g. Substance abuse is the primary diagnosis and the primary treatment need. (1-1-98)T

03. Prior Authorization. Prior authorization must be obtained from the Department or its designee prior to admission. Only those admissions during non-business hours will be considered emergency admissions for prior authorization purposes. Requests for prior authorization must include: (1-1-98)T

a. Diagnosis; and (1-1-98)T

b. Summary of present medical findings including symptoms, complaints and complications indicating the need for admission; and (1-1-98)T

c. Medical history; and (1-1-98)T

d. Mental and physical functional capacity; and (1-1-98)T

- e. Prognosis; and (1-1-98)T
- f. Recommendation by a physician for admission, preferably the primary care physician. If the child is enrolled in the Healthy Connection (HC) program, a HC referral is required. (1-1-98)T
04. Emergency Admissions. Only those admissions which occur during other than normal business hours will be considered for payment without prior authorization. An emergency for purposes of a waiver of the prior authorization requirement is defined as, "the sudden onset of acute psychiatric symptoms of such severity that the absence of immediate medical attention could reasonably be expected to result in serious dysfunction of any bodily organ/part or death of the individual or harm to another person." A court-ordered admission or physician's emergency certificate does not, in itself, justify characterizing the admission as an emergency admission. The severity of illness and intensity of services criteria must be met. The information for authorization of services must be FAXED to the Department or its designee on the next business day following the emergency admission. (1-1-98)T
05. Length of Stay. An initial length of stay will be established by the Department or its designee. An initial length of stay will usually be for no longer than five (5) days. For first time admissions where intensity of services criteria is not met the initial length of stay may not exceed forty-eight (48) hours. A hospital may request an extension when the appropriate care of the recipient indicates the need for hospital days in excess of the originally approved number. The extension request may be made no later than the last authorized day or last business day before the last authorized day. Extensions will be considered on a case by case basis and will be for no longer than three (3) days at a time. Extensions will be based on the following criteria: (1-1-98)T
- a. The medical necessity criteria that was present upon admission still exists; and (1-1-98)T
- b. A plan of care that includes services which are required to be provided on an in-patient basis; and (1-1-98)T
- c. There is documentation that supports continued hospitalization will improve the recipient's condition. (1-1-98)T
06. Individual Plan of Care. The individual plan of care is a written plan developed for the recipient upon admission to an in-patient psychiatric hospital to improve his condition to the extent that acute psychiatric care is no longer necessary. The plan of care must be developed and implemented within seventy-two (72) hours of admission, reviewed at least every three (3) days, and must: (1-1-98)T
- a. Be based on a diagnostic evaluation that includes examination of the medical, behavioral, and developmental aspects of the recipient's situation and reflects the need (medical necessity criteria) for in-patient care; and (1-1-98)T
- b. Be developed by an interdisciplinary team capable of assessing the child's immediate and long range therapeutic needs, developmental priorities and personal strengths and liabilities, assessing the potential resources of the child's family, setting the treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives. The team must include at a minimum: (1-1-98)T
- i. Board-certified psychiatrist (preferably with a specialty in child psychiatry); or (1-1-98)T
- ii. A licensed psychologist and a physician licensed to practice medicine or osteopathy; or (1-1-98)T
- iii. A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental disease and a licensed professional counselor-private practice; and (1-1-98)T
- iv. Either a certified social worker-private practice or a registered nurse with specialized training or one (1) year's experience in treating mentally ill individuals (preferably children); or (1-1-98)T
- v. A licensed occupational therapist who has had specialized training or one (1) year of experience in treating mentally ill individuals (preferably children); and (1-1-98)T

vi. The recipient and his parents, legal guardians, or others into whose care he will be released after discharge. (1-1-98)T

c. State treatment objectives (related to conditions that necessitated the admission); and (1-1-98)T

d. Prescribe an integrated program of therapies, treatments (including medications), activities (including special procedures to assure the health and safety of the child), and experiences designed to meet the objectives; and (1-1-98)T

e. Include a discharge and post discharge plan designed to achieve the child's discharge at the earliest possible time and include plans for coordination of community services to ensure continuity of care with the recipient's family, school and community upon discharge. (1-1-98)T

07. Provider Qualifications. Inpatient hospital psychiatric services for individuals under age twenty-one (21) must be provided under the direction of a physician in a facility accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and licensed by the state of Idaho or the state in which they provide services. Facilities currently providing psychiatric hospital services under the authority of Family and Community Services that are certified by the Health Care Financing Administration have until July 1, 1998 to comply with this requirement. To provide services beyond emergency medical screening and stabilization treatment, the hospital must have a separate psychiatric unit with staff qualified to provide psychiatric services to children. General hospitals licensed to provide services in Idaho which are not JCAHO certified may not bill for psychiatric services beyond emergency screening and stabilization (1-1-98)T

08. Payment. The recipient's admission and length of stay is subject to preadmission, concurrent and retrospective review by the Department or its designee. If such review identifies that an admission or continued stay is not medically necessary, then no Medicaid payment will be made. (1-1-98)T

a. In reimbursing for inpatient hospital psychiatric services the Department will pay the lessor of customary charges or the reasonable cost of semi-private rates for inpatient hospital care in accordance with the rules set forth in IDAPA 16.03.10, "Rules Governing Medicaid Provider Reimbursement in Idaho." (1-1-98)T

b. The cost of services that would be the responsibility of the Department of Education for school age children cannot be considered in the cost of inpatient psychiatric hospital services. (1-1-98)T

09. Record Keeping. A written report of each evaluation and the plan of care must be entered into the child's record at the time of admission or if the child is already in the facility, immediately upon completion of the evaluation or plan. (1-1-98)T

10. Utilization Review (UR). The facility must have in effect a written utilization review plan that provides for review of each child's need for the services that the hospital furnishes him. The UR plan must meet the requirements under 42 CFR 456.201 through 456.245. (1-1-98)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0309-9713**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective January 1, 1997.

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

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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:** Subsection 140.01.d. is added to specify that the choice of therapeutic equipment is the responsibility of the physician and therapist. This section also adds that all therapeutic equipment used is included in the fee for service and cannot be billed separately to either the client or the Department.

Subsection 140.02 is modified to allow for 6 month physician recertification of services for long term, chronic patients.

Subsection 140.04 is modified to remove the exclusion of hippotherapy.

Subsection 060.06 is added to include the same inclusion of therapeutic equipment for physical, occupational and speech therapy as described in Subsection 140.01.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Lloyd Forbes at (208) 334-5795.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 26, 1997.

DATED this 6th day of November, 1997.

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**TEXT OF DOCKET NO. 16-0309-9713**

**060. FEES AND UPPER LIMITS.**

01. Inpatient Hospital Fees. In reimbursing licensed hospitals, the Department will pay the lesser of customary charges or the reasonable cost of semi-private rates for inpatient hospital care in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 10, "Rules Governing Medicaid Provider Reimbursement in Idaho. Inpatient payments shall not exceed the Upper Payment limit set forth in the Code of Federal Regulations. (7-1-97)

02. Outpatient Hospital Fees. The Department will not pay more than the combined payments the provider is allowed to receive from the beneficiaries and carriers or intermediaries for providing comparable services under comparable circumstances under Medicare. Outpatient hospital services identified below that are not listed in the Department's fee schedules will be reimbursed reasonable costs based on a year end cost settlement. (7-1-97)

a. Maximum payment for hospital outpatient diagnostic laboratory services will be limited to the Department's established fee schedule. (5-25-93)

b. Maximum payment for outpatient hospital diagnostic radiology procedures will be limited to the blended rate of costs and the Department's established fee schedule specified in IDAPA 16.03.10, Subsection 457.02 at the time of cost settlement. (7-1-97)

c. Maximum payment for hospital outpatient partial care services will be limited to the Department's established fee schedule. (5-5-93)

d. Maximum payment for hospital out-patient surgical procedures will be limited to the blended rate of costs and the Department's fee schedule for ambulatory surgical centers specified in IDAPA 16.03.10, Subsection 457.01 at the time of cost settlement. (7-1-97)

e. Hospital based ambulance services will be reimbursed according to Medicare cost reimbursement principles. All other ambulance providers will be reimbursed according to the Department's established fee schedule for medical transportation. (7-1-97)

03. Long-Term Care Facility Fees. Long-term care facilities will be reimbursed the lower of their customary charges, their actual reasonable costs, or the standard costs for their class as set forth in the Provider Reimbursement Manual, but the upper limits for payment must not exceed the payment which would be determined as reasonable costs using the Title XVIII Medicare standards and principles. (11-10-81)

04. Individual Provider Fees. The Department will not pay the individual provider more than the lowest of: (11-10-81)

a. The provider's actual charge for service; or (11-10-81)

or b. The maximum allowable charge for the service as established by the Department on its pricing file; (11-10-81)

c. The Medicare upper limitation of payment on those services where a beneficiary is eligible under both programs and Medicaid is responsible only for the deductible and co-insurance payment. (11-10-81)

05. Fees for Other Noninstitutional Services. The Department will reimburse for all noninstitutional services which are not included in other Idaho Department of Health and Welfare Rules, but allowed under Idaho's Medical Assistance Program according to the provisions of 42 CFR Section 447.325 and 42 CFR Section 447.352 and Section 1902(a)(13)(E) of the Social Security Act. (7-1-97)

06. Fees for Speech, Occupational and Physical Therapy Services. The fees for physical, occupational, and speech therapy include the use of therapeutic equipment to provide the modality or therapy. No additional charge

may be made to either the Medicaid program or the client for the use of such equipment.

(1-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**140. PHYSICAL THERAPY SERVICES.**

The Department will pay for physical therapy rendered by or under the supervision of a licensed physical therapist if such services are ordered by the attending physician as part of a plan of care. (7-1-96)

01. Service Description. The following modalities, therapeutic procedures, tests, and measurements as described in the Physical Medicine and Rehabilitation Subsection and the Neurology and Neuromuscular Procedures Subsection of the Physician's Current Procedural Terminology (CPT), published by the American Medical Association, P.O. Box 10950, Chicago, Illinois 60610, most current edition, are reimbursable for physical therapists. (7-1-96)

a. Modalities are any physical agent applied to produce therapeutic changes to biological tissue. These include the application of thermal, acoustic, light, mechanical or electrical energy. CPT procedure code range 97032 through 97036 require direct, one to one, patient contact by the therapist. CPT procedure code range 97010 through 97028 may be performed under the supervision of the physical therapist. Any modality which is not contained in these procedure code ranges must be billed using CPT code 97039 for an unlisted modality, and requires authorization by the Department prior to payment. In this case, physician and therapist information documenting the medical necessity of the modality requested for payment must be provided in writing to the Bureau of Medicaid Policy and Reimbursement. (7-1-96)

b. Therapeutic procedures are the application of clinical skills, services, or both that attempt to improve function. All therapeutic procedures require the therapist to have direct, one to one, patient contact. CPT procedure code range 97110 through 97541, and 97770, but excluding CPT procedure code 97124, massage, are eligible for Medicaid payment. Any procedure not described by these procedure codes must be billed using CPT procedure code 97139 as an unlisted procedure, and requires authorization by the Department prior to payment. In this case, physician and therapist documentation of the medical necessity of the therapeutic procedure must be provided in writing to the Bureau of Medicaid Policy and Reimbursement. (7-1-96)

c. The provision of tests or measurements as described by CPT procedure codes 97700 through 97750 may be reimbursed. The physical therapist may be reimbursed for the technical component of muscle testing, joint range of motion, electromyography or nerve velocity determinations as described in CPT procedure codes 95831 through 95904 when ordered by a physician. (7-1-96)

d. The equipment used by the physical therapists to provide services is up to the discretion of the therapist and physician. All therapeutic equipment used by the therapist is included in the fee for service payment and no separate charge may be made to either the Medicaid program or client. (1-1-97)T

02. Physician Orders. All physical therapy must be ordered by a physician and such orders must include at a minimum, the service to be provided, frequency, and, where applicable, the duration of each therapeutic session. In the event that services are required for extended periods, these services must be reordered as necessary, but at least every thirty (30) days for all patients except those receiving home health agency services and patients with chronic conditions which require on-going physical therapy. Physical therapy provided by home health agencies must be included in the home health plan of care and be reordered not less often than every sixty (60) days. Individuals with chronic medical conditions, as documented by physician, may be reordered up to every six (6) months. Documentation including the physician orders, care plans, progress or other notes documenting each assessment, therapy session and testing or measurement results must be maintained in the files of the therapist. The absence of such documentation is cause for recoupment of Medicaid payment. (7-1-96)(1-1-97)T

03. Payment Procedures. Payment procedures are as follows: (7-1-96)

a. Each recipient is limited to one hundred (100) visits of outpatient physical therapy during any

calendar year. Visits to outpatient departments of hospitals and from home health agencies or independent physical therapists providing physical therapy are included in the limit on the total outpatient physical therapy visits.

(3-22-93)

b. Home health agencies must send a copy of the patient's attending physician's order for physical therapy services to the Department with their claims. (7-1-96)

i. Physical therapy rendered by home health agencies must have, at least every sixty (60) days, physician recertification, in writing, that those services were medically necessary. This information must be on the copy of the physician's order submitted with the claim. (7-1-96)

ii. Physical therapy provided by home health agencies will be paid at a rate per visit as described in Section 105. (12-31-91)

c. Physical therapists identified by Medicare as independent practitioners and enrolled as Medicaid providers will be paid on a fee-for-service basis. The maximum fee paid will be based upon the Department's fee schedule. Only these practitioners can bill the Department directly for their services. (7-1-96)

d. Physical therapy rendered on-site to hospital inpatients or outpatients will be paid at a rate not to exceed the payment determined as reasonable cost using Title XVIII (Medicare) standards and principles. (3-22-93)

e. Physical therapy rendered by nursing home facilities to outpatients will be paid at a rate not to exceed the payment determined as reasonable cost using Title XVIII (Medicare) standards and principles. (7-1-85)

f. Payment for physical therapy rendered to inpatients in long-term care facilities is made directly to the facilities as part of their operating costs. (7-1-85)

g. Payment for physical therapy ordered in an Adult and Child Development Center or its equivalent, according to Section 120, will be made directly to that center. Payment will be based upon the Department's fee schedule for those services. (12-31-91)

04. Excluded Services. Services excluded from Medicaid program coverage include ~~Hippotherapy~~, group exercise therapy, group hydrotherapy, and biofeedback services. ~~(7-1-96)~~(1-1-97)T



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0309-9714**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective May 1, 1997.

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

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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:** This docket deletes Targeted Case Management for Parenting Teens and their infants which has been replaced by the implementation of Welfare Reform and EPSDT Case Management.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Lloyd Forbes at (208) 334-5795.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 26, 1997.

DATED this 5th day of November, 1997.

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**TEXT OF DOCKET NO. 16-0309-9714**

**091. (RESERVED). ~~TARGETED CASE MANAGEMENT FOR PREGNANT PARENTING TEENS AND THEIR INFANTS.~~**

~~The Department will purchase case management (CM) services for qualified pregnant teens only in specific target areas. Services will be provided by qualified providers who have entered into a provider agreement with the Department. The purpose of these services is to assist targeted individuals to gain access to needed medical, social, educational, vocational and other services to promote positive pregnancy outcomes and develop self-sufficiency.~~

~~(3-2-94)~~

~~01. Target Group. Medicaid eligible pregnant teens seventeen (17) years of age or younger at time of conception. Teens who qualify for case management at intake continue to qualify for case management services until the infant is one (1) year of age, so long as the goals of the case management plan have not been met. For purposes of this section, a teen is considered pregnant until seventy-two (72) hours after delivery. Additionally, any Medicaid eligible teen/infant receiving targeted case management services since October 1, 1993, will be considered part of the target group.~~ (3-2-94)

~~02. Target Areas. Adams, Washington, Payette, Gem, Canyon and Owyhee counties.~~ (3-2-94)

~~03. Service Descriptions. Case Management services shall be delivered in accordance with these rules by qualified providers to assist qualified teens/infants in obtaining and coordinating needed health, educational, vocational and social services most appropriate for self-sufficiency. CM services shall consist of the following core functions:~~ (3-2-94)

~~a. Assessment. A CM provider must assess the patient/recipient's needs through the systematic collection of data to determine current status and needs. Data sources include, but are not limited to, patient/recipient and family interviews, existing available records, and needs tests. The case manager will identify the patient/recipient's current needs, including but not limited to:~~ (3-2-94)

- ~~i. Relationship with a primary health care provider;~~ (3-2-94)
- ~~ii. Immunization status;~~ (3-2-94)
- ~~iii. History of physical exams;~~ (3-2-94)
- ~~iv. Family health care utilization practices;~~ (3-2-94)
- ~~v. Social and health services currently being used by the family;~~ (3-2-94)
- ~~vi. Physical health;~~ (3-2-94)
- ~~vii. Mental health;~~ (3-2-94)
- ~~viii. Academic functioning;~~ (3-2-94)
- ~~ix. Behavior problems;~~ (3-2-94)
- ~~x. Social relationships;~~ (3-2-94)
- ~~xi. Environmental situations;~~ (3-2-94)
- ~~xii. Developmental status;~~ (3-2-94)
- ~~xiii. Mobility capabilities;~~ (3-2-94)
- ~~xiv. Family functioning;~~ (3-2-94)
- ~~xv. Nutritional status and eating disorders;~~ (3-2-94)
- ~~xvi. Chemical use/abuse and tobacco use by individual and presence in environment;~~ (3-2-94)
- ~~xvii. Future family planning needs; and~~ (3-2-94)
- ~~xviii. Other needs as identified by the recipient, and/or family/caretaker.~~ (3-2-94)

~~b. Development of Plan of Care. Based on the needs assessment, the case manager will develop a plan of care. Planning activities involve making specific decisions regarding the patient/recipient's needs and determining~~

~~the resources available to meet those needs in a coordinated, integrated fashion. The plan of care will provide for transition to independence, including an expected date and method for achieving such transition. When possible, family members and/or caretakers and appropriate professionals are to be included in the planning process. (3-2-94)~~

~~i. Integrated Document. The plan of care is an integrated document which provides the basis for the delivery of services. The plan must be written and identify each problem to be addressed, the expected outcome, the referrals to be made, resources to be used, and identification of responsibilities. (3-2-94)~~

~~ii. Review and Update. The case manager and recipient or caretaker will review and update the plan of care as needed, collaborating as necessary with appropriate parties. (3-2-94)~~

~~iii. Documentation. The plan of care and accompanied documents serve as documentation for payment purposes. The patient/recipient's record must include the formal plan of care and updates to the plan, and any narrative documentation reflecting active priorities. It should also include an intake assessment, a copy of a completed intake reporting form, and identification of areas where intervention is needed. (3-2-94)~~

~~e. Implementation of Plan of Care. Implementation ensures that the recipient and/or family receives services as indicated in the patient/recipient's plan of care. (3-2-94)~~

~~i. Referrals. The case manager will make referrals in a coordinated, planned manner or provide information and assist patient/recipient's to self-refer. (3-2-94)~~

~~ii. Linking/Coordination of Services. Through negotiation and referrals, the case manager links the recipient to various providers of services/care and coordinates service delivery. Coordination of service delivery includes activities such as assuring that needed services have been delivered, consulting with service providers to ascertain whether they are adequate for the needs of the recipient, and consulting with the client to identify the need for changes in a specific service or the need for additional services. The case manager may refer to his own agency for services but may not restrict the recipient's choice of service providers. It may be necessary to mobilize more than one set of resources to make adequate services available. (3-2-94)~~

~~iii. Advocacy. Related advocacy activities are provided to assist the family to achieve the goals of the plan, particularly when resources are inadequate or the service delivery system is nonresponsive. The case manager will negotiate or otherwise assist the recipient/caretaker in accessing appropriate services. Advocacy may include, but is not limited to: (3-2-94)~~

~~(1) Intervening with agencies or persons to help individual recipients receive appropriate benefits or services; and (3-2-94)~~

~~(2) Assisting the recipient/caretaker to accomplish necessary tasks such as filling out pertinent forms, obtaining necessary documentation or authorization, and finding transportation to services. (3-2-94)~~

~~d. Crisis/Urgent Assistance. Crisis/urgent assistance services are those case management activities that are needed in addition to the assessment, development and implementation of the plan of care resulting from emergency/urgent situations. These are activities to obtain emergency housing, protection of the patient/recipient, to meet health care needs, or similar activities required by the imminence of the situation. Crisis/Urgent assistance may be provided prior to or after the completion of the plan of care. (3-2-94)~~

~~04. CM Provider Qualifications. Case management providers must meet the following criteria: (3-2-94)~~

~~a. Operate as an organization with on-site ability to provide a comprehensive service package to pregnant teens that includes JOBS counseling, arrangement for child care services, Child Support Services, WIC, immunizations, sexually transmitted disease service, and family planning; (3-2-94)~~

~~b. Have at least four (4) years of experience with, and demonstrated positive outcomes in work with, the targeted group; (3-2-94)~~

- e. ~~Have appropriate liability insurance and be responsible for the withholding and payment of taxes for its employees; and~~ (3-2-94)
- d. ~~Be located in the target area.~~ (3-2-94)
05. ~~CM Provider Staff Qualifications. Staff members delivering case management services for the provider organization must meet the following qualifications:~~ (3-2-94)
- a. ~~Be a registered nurse or a licensed social worker;~~ (3-2-94)
- b. ~~Be under the direct supervision of, or a subcontractor of, the provider organization; and~~ (3-2-94)
- e. ~~Case manage no more than forty-five (45) individuals at any time.~~ (3-2-94)
06. ~~Recipient's Choice. The qualified patient/recipient will be allowed to choose whether or not she desires to receive CM services. Recipients may also choose the providers of medical and other services under the Medicaid program, subject to restrictions imposed by managed care programs.~~ (3-2-94)
07. ~~Payment for Services. When an assessment indicates the need for medical, psychiatric, social, educational, or other services, referral or arrangement for such services may be included as CM services, however, the actual provision of the service does not constitute CM. CM does not include the provision of services such as transportation, psychotherapy or counseling, supportive therapy, or training. Medicaid will reimburse only for core services (Subsection 091.03) provided to members of the target group by qualified staff.~~ (3-2-94)
- a. ~~Payment for CM will not duplicate payment made to public or private entities under other program authorities for the same purpose.~~ (3-2-94)
- b. ~~Payment will not be made for CM services provided to individuals who are inpatients in nursing facilities, ICFs/MR, or hospitals.~~ (3-2-94)
- e. ~~Medicaid will reimburse for case management services on the same date a recipient is admitted or discharged from a hospital, nursing facility, or other institutional setting, as long as the recipient is not yet admitted or has been discharged at the time of service delivery.~~ (3-2-94)
- d. ~~Reimbursement for the assessment and individual plan of care development for the mother or the child shall be paid based on a one-time flat rate established by the Bureau.~~ (7-1-94)
- e. ~~Reimbursement for on-going case management services such as review and revision of the plan of care or crisis management shall be made based on a monthly rate for the calendar months in which at least one face-to-face contact has occurred to render CM services. The rate will be established by the Bureau.~~ (7-1-94)
- f. ~~The Department will not provide Medicaid reimbursement for on-going case management services delivered prior to the completion of the assessments and individual plan of care.~~ (3-2-94)
- g. ~~The Department will provide Medicaid reimbursement for crisis assistance provided prior to or after the completion of the assessments and individual service plan.~~ (3-2-94)
- h. ~~Audit reviews may be conducted by the Department. Review findings may be referred to the Department's Surveillance and Utilization Review Section for appropriate action.~~ (3-2-94)
- i. ~~Failure to provide services for which reimbursement has been received or to comply with these rules will be cause for recoupment of payments for services, sanctions, or both.~~ (3-2-94)
- j. ~~The provider will provide the Department with access to all information required to review compliance with these rules.~~ (3-2-94)
- k. ~~The Department will not provide Medicaid reimbursement for case management services provided~~

- ~~to a group of recipients. (3-2-94)~~
- ~~08. Record Requirements. The following documentation must be maintained by the provider. (3-2-94)~~
- ~~a. A standard plan of care and progress notes which include the following: (3-2-94)~~
- ~~i. Name, age, race, and ethnicity of recipient; (3-2-94)~~
- ~~ii. Name of the provider agency and the case manager providing the service; (3-2-94)~~
- ~~iii. Date, time, and duration of service; (3-2-94)~~
- ~~iv. Place of service; (3-2-94)~~
- ~~v. Activity record describing the recipient and the service provided; (3-2-94)~~
- ~~vi. An informed consent form signed by the recipient or legal guardian clearly explaining the purpose of case management. (3-2-94)~~
- ~~b. Standard forms, including but not limited to: (3-2-94)~~
- ~~i. Intake form; (3-2-94)~~
- ~~ii. Pregnancy outcome forms; (3-2-94)~~
- ~~iii. Tracking forms; and (3-2-94)~~
- ~~iv. Exit forms. The standard forms used by case managers must collect information in the following areas: recipient characteristics; maternity related needs; substance use treatment and education; primary and preventative health services and education; pediatric care; sexual decision making; nutrition counseling; adoption counseling; child support enforcement services; educational/vocational training needs; economic/housing needs; role/relationship needs; child care needs; transportation; and consumer/homemaking skills. (3-2-94)~~

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0309-9715**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1997.

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

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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:** Current medical findings published in the Mayo Clinic Proceedings has determined that age should not be a factor in the decision to do surgery for obesity related illnesses. Many improvements and advances have been made in operative and perioperative management. The age limitation for obesity surgery is being removed due to these latest findings and the opinion of our medical consultant.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect the public health, safety, or welfare.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Robbie Charlton at (208) 334-5795.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 26, 1997.

DATED this 5th day of November, 1997.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
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**TEXT OF DOCKET NO. 16-0309-9715**

**069. SURGICAL PROCEDURES FOR WEIGHT LOSS.**

01. Surgery for the Correction of Obesity. Surgery for the correction of obesity is covered only with prior authorization from the Bureau of Medicaid Policy and Reimbursement. Surgical procedures for weight loss will be considered when the patient meets the weight criteria for morbid obesity as defined in Subsection 003.368 of these rules; and, ~~(7-1-97)~~(7-1-97)T

- a. ~~Is not over age fifty-five (55) and non-diabetic; or,~~ (7-1-97)
- b. ~~Is not over age forty-five (45) and is diabetic; and,~~ (7-1-97)
- ea. Has one (1) of the major life threatening complications of obesity: alveolar hypoventilation, uncontrolled diabetes, or uncontrolled hypertension: (7-1-97)
- i. For purposes of this Subsection, "uncontrolled" means that there is inadequate compliance or response to a prescribed medical regimen. (7-1-97)
- ii. Other complications of obesity such as orthopedic treatment, skin and wound care are not considered justification for a surgical remedy. (7-1-97)
- db. Must have a psychiatric evaluation to determine the stability of personality at least three (3) months prior to date the surgery is requested; (7-1-97)
- ec. Understands and accepts the resulting risks associated with the surgery. (7-1-97)
02. All Patients Requesting Surgery. All patients requesting surgery must have their physician send a complete history and physical exam, and medical records documenting the patient's weight and efforts to lose weight by conventional means over the past five (5) years for the request to be considered. (7-1-97)
03. The Documentation of Life Threatening Complications. The documentation of life threatening complications in Subsection 069.01.c. of these rules. must be provided by a consultant specializing in pulmonary diseases, endocrinology, or cardiology/hypertensive illness who is not associated by clinic or other affiliation with the surgeons who will perform the surgery, or the primary physician who refers the patient for the procedure. (7-1-97)
04. Abdominoplasty or Panniculectomy. Abdominoplasty or panniculectomy is covered only with prior authorization from the Bureau of Medicaid Policy and Reimbursement. Medicaid does not cover procedures for cosmetic purposes. The documentation that must accompany a request for prior authorization includes, but is not limited to, the following: (7-1-97)
- a. Photographs of the front, side and underside of the patient's abdomen; and, (7-1-97)
- b. Documented treatment of the ulceration and skin infections involving the panniculus; and, (7-1-97)
- c. Documented failure of conservative treatment, including weight loss; and, (7-1-97)
- d. That the panniculus severely inhibits the patient's walking; and, (7-1-97)
- e. The client is unable to wear a garment to hold the panniculus up; and, (7-1-97)
- f. Other detrimental effects of the panniculus on the patients's health such as severe arthritis in the lower body. (7-1-97)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0309-9716**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

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

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

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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:** One of the Governor's reform initiatives (8.D.iii.) directs the Department to obtain an independent review of all durable medical equipment (DME) over \$5,000. The Department will be contracting with a Professional Review Organization (PRO) to implement this initiative. Rather than have authorizations for DME and medical supplies conducted by two different entities depending on the cost of the equipment or supply, the Department made the decision to include the prior authorization of all DME with the PRO. The bulk of rules changes in this docket give the Department the authority to prior authorize DME or contract with a private entity for this function.

Other changes are clarifications, removal or redundancies and outdated requirement and structural reorganization of existing rules.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Pam Mason at (208) 334-5795.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 26, 1997.

DATED this 5th day of November, 1997.

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**TEXT OF DOCKET NO. 16-0309-9716**



**106. DURABLE MEDICAL EQUIPMENT AND MEDICAL SUPPLIES.**

The Department will purchase or rent medically necessary cost effective durable medical equipment and medical supplies for recipients residing in community settings. ~~It will also purchase or rent equipment and supplies including those provided as a part of through a home health agency plans of care and~~ which meet the requirements found in Subsections 105.01 and 105.02. No payment will be made for any recipient's DME or medical supplies that are included in the per diem payment while such an individual is an inpatient in a hospital NF, or ICF/MR facility ~~as such items are included in the per diem payment.~~ (10-22-93)(1-1-98)T

01. ~~Required Physician Orders~~ Medical Necessity Criteria. DME/medical supplies will be purchased only if ordered in writing (signed and dated) by a physician, ~~with all of (~~The following information ~~written on the Department's designated form or other approved document. Such information must be attached to, or on file with, the Department for each claim submitted prior to payment authorization:~~ to support the medical necessity of the item(s) shall be included in the physician's order and accompany all requests for prior authorization or be kept on file with the DME provider for items which do not require prior authorization: (10-1-91)(1-1-98)T

a. The recipient's medical diagnosis and ~~the~~ prognosis including current information on the medical condition which requires the use of the supplies and/or medical equipment; and (10-1-91)(1-1-98)T

b. An estimate of the time period that the medical equipment or supply item will be necessary and frequency of use. As needed (PRN) orders ~~shall not be accepted;~~ must include the conditions for use and the expected frequency; and (10-1-91)(1-1-98)T

c. ~~The signature of the prescribing physician and the date of the order;~~ and For medical equipment, a full description of the equipment needed. All modifications or attachments to basic equipment must be supported; and (11-1-86)(1-1-98)T

d. For medical supplies, the type and quantity of supplies necessary must be identified; and (11-1-86)

e. ~~A full description of the medical equipment requested. All modifications to a basic equipment item shall be supported by the attending physician's prescription;~~ and The number of months the equipment or supplies will be needed; and (10-1-91)(1-1-98)T

f. ~~The number of months the equipment will be needed and the recipient's prognosis;~~ and Additional information may be requested by the Department or its designee for specific equipment and/or supplies such as, but not limited to, wheelchairs, hospital beds, blood glucose monitors or oxygen. (10-1-91)(1-1-98)T

~~g. Oxygen and oxygen-related equipment require additional information (see Section 107).~~ (12-31-91)

02. Medical Equipment Program Requirements, ~~DME~~. All claims for durable medical equipment ~~must be prior authorized by the Department, except for the following items~~ are subject to the following guidelines: (10-1-91)(1-1-98)T

a. ~~Items which do not require prior authorization have a charge of one hundred dollars (\$100) or less and include the following:~~ All durable medical equipment must be prior authorized by the Department or its designee except for the following items, when the cost of these items is less than one hundred dollars (\$100): (10-31-89)(1-1-98)T

i. Walkers, canes and crutches; and (10-31-89)

ii. Grab bars, toilet seat extenders and hand-held showers; and (10-31-89)

iii. Sliding boards and bath benches/chairs; and (10-31-89)

iv. Equipment for the treatment of decubitus ulcers as listed in Subsection 106.02.f.xviii. (10-22-93)

b. All Equipment, excluding those items listed in Subsection 106.02.a. will be rented unless the

Department or its designee decides that it would be more cost effective to purchase it. All rentals require prior authorization by the Department or its designee and are subject to the following guidelines: ~~(40-22-93)~~(1-1-98)T

ei. Rental payments, including intermittent payments, shall automatically be applied to the purchase of the equipment. When rental payments equal the purchase price of the equipment, ownership of the equipment shall pass to the Department. (10-1-91)

ii. The Department may choose to continue to rent certain equipment without purchasing it. Such items include but are not limited to apnea monitors. (1-1-98)T

iii. The total monthly rental cost of a DME item shall not exceed one-twelfth (1/12) of the total purchase price of the item. A minimum rental rate of fifteen (\$15) per month is allowed on all DME items. (1-1-98)T

dc. No reimbursement will be made for the cost of repairs (materials or labor) covered under the manufacturer's warranty. ~~If the warranty period has expired, information on file must include the date of purchase and warranty period. In addition, the Department shall require the following minimum warranty periods: The date of purchase and warranty period must be kept on file by the DME vendor. The following warranty periods are required to be provided on equipment purchased by the Department:~~ ~~(40-1-91)~~(1-1-98)T

i. A power drive wheelchair shall have a minimum one (1) year warranty period; ~~(40-22-93)~~(1-1-98)T

ii. An ultra light wheelchair shall have a lifetime warranty period; (10-22-93)

iii. An active duty lightweight wheelchair shall have a minimum five (5) year warranty period; ~~(40-22-93)~~(1-1-98)T

iv. All other wheelchairs shall have a minimum one (1) year warranty period; ~~(40-22-93)~~(1-1-98)T

v. All electrical components and new or replacement parts shall have a minimum six (6) month warranty period; ~~(40-1-91)~~(1-1-98)T

vi. All other DME not specified above shall have a minimum one (1) year warranty period; ~~(40-1-91)~~(1-1-98)T

vii. If the manufacturer denies the warranty due to user misuse/abuse, that information shall be forwarded to the Department at the time of the request for repair or replacement; (10-1-91)

viii. The monthly rental payment shall include a full service warranty. All routine maintenance, repairs, and replacement of rental equipment is the responsibility of the provider. (10-22-93)

ed. Any equipment purchased will remain the property of the Department and return of the equipment to the Department may be required ~~at such time as:~~ Recipients who meet one (1) of the following criteria should check with the Department or its designee for instructions on the disposition of the equipment: ~~(41-1-86)~~(1-1-98)T

i. The recipient is no longer eligible for MA; or (11-1-86)

ii. The recipient no longer requires the use of the equipment; or (11-1-86)

iii. The recipient expires. (10-1-91)

fe. Covered equipment is limited to the following listed items: (11-1-86)

i. Apnea or cardiac monitors/alarms; and (11-1-86)

ii. Bilirubin lights; and (1-1-98)T

- iii. C-PAP machines; and (10-29-92)
- iiii. Commode chairs and toilet seat extenders; and (11-1-86)
- iv. Crutches and canes; and (11-1-86)
- vi. Electronic bone growth stimulators; and (11-1-86)
- vii. ~~Equipment used for home dialysis including necessary water treatment equipment; and~~ Electric or hydraulic patient lift devices designed to transfer a person to and from bed to bathtub, but excluding lift chairs, devices attached to motor vehicles, and wall mounted chairs which lift persons up and down stairs; and ~~(11-1-86)~~(1-1-98)T
- viii. Home dialysis equipment; and (1-1-98)T
- ix. Grab bars for the bathroom adjacent to the toilet and/or bathtub; and (11-1-86)
- x. ~~Hand-held showers; and~~ (11-1-86)
- xi. Head gear (protective); and (1-1-98)T
- xii. Hearing aids (see Section 108) for coverage and limitations); and (1-1-98)T
- xiii. Home blood glucose monitoring equipment; and (11-1-86)
- xiv. Hospital beds, mattresses, trapeze bars, and side rails; and (11-1-86)
- xv. Intravenous infusion pumps, insulin infusion pumps, and/or NG tube feeding pumps, IV poles/stands, intrathecal kits; and ~~(10-31-89)~~(1-1-98)T
- xvi. IPPB machines, hand-held nebulizers, air therapy vests, and manual or electric percussor; and ~~(10-31-89)~~(1-1-98)T
- xvii. Medication organizers; and (1-1-98)T
- xviii. Oxygen concentrators; and (11-1-86)
- xix. Pacemaker monitors; and (11-1-86)
- xx. Respirators, compressors and breathing circuit humidifiers; and (11-1-86)
- xxi. Sliding boards and bath benches/chairs; and (11-1-86)
- xxii. Suction pumps; and (11-1-86)
- xxiii. ~~Equipment for the treatment or prevention of decubitus ulcers, such as foam or gel pads, sheep skins, etc.~~ Sheep skins, foam or gel pads for the treatment of decubitus ulcers; and ~~(11-1-86)~~(1-1-98)T
- xxiv. Traction equipment; and (1-1-98)T
- xxv. Transcutaneous and/or neuromuscular electric nerve stimulators; and (11-1-86)
- xxvi. Walkers; and (11-1-86)
- xxvii. Wheelchairs, manual and electric; ~~and~~, ~~(10-31-89)~~(1-1-98)T

~~xxii. Electric or hydraulic patient lift devices designed to transfer a person to and from bed or bathtub, but excluding lift chairs, devices attached to motor vehicles and wall-mounted chairs which lift persons up and down stairs; and (10-31-89)~~

~~xxiii. Bilirubin lights; and (10-31-89)~~

~~xxiv. Medically necessary protective head gear; and (10-31-89)~~

~~xxv. Home traction equipment; and (10-31-89)~~

~~xxvi. Daily medication dose organizer. (10-31-89)~~

~~g. The total monthly rental cost of a DME item shall not exceed one twelfth (1/12) of the total purchase price of the item. A minimum rental rate of fifteen dollars (\$15) per month is allowed on all DME items. (10-1-91)~~

03. Coverage Conditions - Equipment. Coverage of the following items is limited to the circumstances identified. The following medical equipment is subject to the following limitations and additional documentation requirements: (10-1-91)(1-1-98)T

a. Wheelchairs. The Department will provide the least costly wheelchair which is appropriate for to meet the recipient's medical needs. The Department will authorize the purchase of one (1) wheelchair per recipient not more often than once every five (5) years. Specially designed seating systems for wheelchairs shall not be replaced more often than once every five (5) years. Wheelchairs and seating systems are expected to provide for expected growth stages and enlargement of the system without replacement of the complete system for a minimum of five (5) years. Wheelchairs shall be authorized in accordance with the following criteria: (10-1-91)(1-1-98)T

i. In addition to the physician's information, each request for a wheelchair must be accompanied by a written evaluation by a physical therapist or an occupational therapist ~~which includes~~. The evaluation must include documentation of the appropriateness and cost effectiveness of the specific wheelchair and all modifications and/or attachments and its ability to meet the recipient's long-term medical needs; (10-1-91)(1-1-98)T

ii. Manual Wheelchairs will be authorized based on the recipient's need according to the following criteria: (10-1-91)(1-1-98)T

(1) ~~A manual wheelchair will be authorized based on the recipient's medical need.~~ The recipient must be nonambulatory or have severely limited mobility and require a mobility aid to participate in normal daily activities and the alternative would be confinement to a bed or chair; (10-1-91)(1-1-98)T

(2) ~~A standard wheelchair will be authorized if the recipient's condition is such that the alternative would be confinement to a chair or bed;~~ (10-1-91)

(3) ~~(2)~~ A standard lightweight wheelchair will be authorized if the recipient's condition is such that he cannot propel a standard weight wheelchair and the alternative would be confinement to a chair or bed; (10-1-91)(1-1-98)T

(4) ~~(3)~~ An ultra light weight wheelchair will be authorized if the recipient's conditions are such that he cannot propel a lightweight or standard weight wheelchair, and it is a last resort before considering a power driven wheelchair. (10-29-92)(1-1-98)T

biii. Electric wheelchairs are purchased only if the recipient's medical needs cannot be met by a ~~less costly means of mobility~~ manual wheelchair. The attending physician must certify that the power drive wheelchair is a safe means of mobility for the recipient and all of the following criteria are met: (10-1-91)(1-1-98)T

i. ~~(1)~~ The recipient is permanently disabled ~~as indicated by the attending physician;~~ and (11-1-86)(1-1-98)T

~~ii.(2)~~ The disability is ~~identified by the physician to be~~ such that, because of severe upper extremity weakness or lack of function, the recipient cannot operate any manual wheelchair. ~~(10-1-91)(1-1-98)T~~

~~e.~~ The Department will authorize repairs or the replacements of parts for wheelchairs including, but not limited to, the replacement of tires, footplates, seating systems, drive belts, and joysticks. The Department will repair or replace any of the above listed parts no more than once every twelve (12) months. In addition, nonemergency repairs totaling over two hundred dollars (\$200) for manual wheelchairs and five hundred dollars (\$500) for electric wheelchairs will require the submission of three (3) bids before authorization for payment can be approved. ~~(10-22-93)~~

~~d.~~ Specially designed seating systems for wheelchairs shall not be replaced more often than once every five (5) years. In addition, seating systems for recipients in expected growth stages shall provide for the enlargement of the system without the complete replacement of the system. ~~(10-1-91)~~

~~eb.~~ Electric Electronic blood glucose testing devices with voice synthesizers are purchased covered only when the following documentation is submitted and verified by the attending physician: ~~(11-1-86)(1-1-98)T~~

~~i.~~ The recipient's eyesight is impaired to the point that color change in standard blood testing strips cannot be accurately detected; and recipient has been determined to be legally blind and is unable to read a standard glucose monitor (this does not include any correctable vision defects; (and) ~~(11-1-86)(1-1-98)T~~

~~ii.~~ Such eyesight impairment is documented by the attending physician; or The recipient lives alone or has no care giver available during the times when the glucose testing must be done. ~~(10-31-89)(1-1-98)T~~

~~iii.~~ The recipient's mental status is such that the recipient cannot be relied upon to accurately interpret test tape/tablet results as documented by the attending physician. ~~(10-31-89)~~

~~iv.~~ When there is medical documentation from the attending physician of insulin dependence with widely fluctuating blood sugars before meal time and/or frequent episodes of insulin reactions and/or evidence of frequent significant ketosis. ~~(10-1-91)~~

~~v.~~ When gestational diabetes has been documented by the attending physician and frequent monitoring of blood sugars is essential to adequately manage blood sugars during pregnancy. ~~(10-1-91)~~

~~fc.~~ Electronic pain suppression/muscle stimulation devices TENS Units are purchased only when the effectiveness of such devices is documented by the physician following a maximum of two (2) month trial period. The limitations of Subsection 106.03 apply; and only after: ~~(10-22-93)(1-1-98)T~~

~~i.~~ The pain has been present for a minimum of three (3) months; and ~~(1-1-98)T~~

~~ii.~~ Other treatment modalities have been tried and failed (documentation must be submitted with request for prior authorization; (and) ~~(1-1-98)T~~

~~iii.~~ The effectiveness of the device is documented following a maximum of a two (2) month trial rental period; and ~~(1-1-98)T~~

~~iv.~~ The physician determines that the recipient is likely to derive significant therapeutic benefit from the continuous use of the device over a long period of time. ~~(1-1-98)T~~

~~gd.~~ Electric hospital beds are purchased or rented only ~~in~~ when the following is documented by the physician circumstances: ~~(10-31-89)(1-1-98)T~~

~~i.~~ The physician certifies that the recipient's medical condition is such that he is unable to operate a manual hospital bed; and ~~(10-31-89)(1-1-98)T~~

~~ii.~~ The ~~client~~ recipient is unable to change position as needed without assistance; and ~~(10-22-93)(1-1-98)T~~

iii. The recipient resides in an independent living situation where there is no one to provide assistance with a manual bed for the major portion of the day. (10-31-89)

fe. Continuous positive airway pressure (C-PAP) machines are purchased or rented only in the following circumstances: (10-29-92)

i. The physician certifies that the recipient's diagnosis is obstructive sleep apnea, which is supported by ~~documentation of at least thirty (30) episodes of apnea, each lasting a minimum of twenty (20) seconds during six (6) to seven (7) hours of recorded sleep; and~~ a sleep study; and (10-29-92)(1-1-98)T

ii. ~~Surgery is a likely alternative~~ There is documentation that the recipient's oxygen saturations improve with the use of the machine. The machine may be rented for three (3) to six (6) months to determine its effectiveness. (10-29-92)(1-1-98)T

if. Bilevel positive airway pressure (BiPAP) are purchased or rented only in the following circumstances: (10-22-93)

i. A C-PAP machine has been proven ineffective in treating obstructive sleep apnea; and/or (10-22-93)

ii. Used in place of a ventilator. (10-22-93)

04. ~~Medical Supply Program Requirements. — Medical Supply Items. The Department will purchase a one (1) month supply of necessary medical supplies for the treatment or amelioration of a medical condition identified by the attending physician in an amount not to exceed one hundred dollars (\$100) per month without prior authorization. Any combination of one (1) month's worth of supplies greater than one hundred dollars (\$100) requires prior authorization. Each of the claims for the preceding must contain all information required in Subsection 106.01. The prior authorization period will be established by the Department or its designee following receipt of a physician's order and medical justification. All claims for medical supply items are subject to the following requirements:~~ (10-22-93)(1-1-98)T

a. The Department will purchase a one (1) month supply of necessary medical supplies for the treatment or amelioration of a medical condition identified by the attending physician in an amount not to exceed one hundred dollars (\$100) per month without prior authorization. Any combination of one (1) month's worth of supplies greater than one hundred dollars (\$100) requires prior authorization by the Department or its designee. The prior authorization period will be established by the Department or its designee. (1-1-98)T

b. Each request for prior authorization must include all information required in Subsection 106.01. (1-1-98)T

ac. Covered supplies are limited to the following: (11-1-86)

and i. Catheter supplies including catheters, drainage tubes, collection bags, and other incidental supplies; (11-1-86)

ii. Cervical collars; and (11-1-86)

iii. Colostomy and/or urostomy supplies; and (11-1-86)

iv. Disposable supplies necessary to operate Department approved medical equipment such as suction catheters, syringes, saline solution, etc.; and (11-1-86)

v. Dressings and bandages to treat wounds, burns, or provide support to a body part; and (11-1-86)

vi. Fluids for irrigation; and (11-1-86)

- vii. Incontinence supplies (See Subsection 106.04.c. for limitations); and (10-22-93)
- viii. Injectable supplies including normal saline and Heparin but excluding all other prescription drug items; and (10-31-89)
- ix. Blood glucose or urine glucose checking/monitoring materials (tablets, tapes, strips, etc.), automatic injectors; and ~~(10-31-89)~~(1-1-98)T
- x. Therapeutic drug level home monitoring kits. (10-31-89)

~~xi.~~ Oral, enteral, or parenteral nutritional products (See Subsection 106.05.a. for limitations and additional documentation requirements. for of any amount must be prior authorized by the Department or its designee. The Department will only consider authorization under the following circumstances: ~~(10-1-91)~~(1-1-98)T

05. Coverage Conditions - Supplies. The following medical supply items are subject to the following limitations and additional documentation requirements: (1-1-98)T

a. Nutritional products. All nutritional products of any amount must be prior authorized by the Department or its designee. Nutritional products will be purchased under the following circumstances: (1-1-98)T

- i. A nutritional plan shall be developed and be on file with the Department or its designee and shall include appropriate nutritional history, the recipient's current height, weight, age and medical diagnosis. For recipients under the age of twenty-one (21), a growth chart including weight/height percentile shall be included; ~~(10-1-91)~~(1-1-98)T
- ii. The plan shall include goals for either weight maintenance and/or weight gain and shall outline steps to be taken to decrease the recipient's dependence on continuing use of nutritional supplements; (10-1-91)
- iii. Documentation of evaluation and updating of the nutritional plan and assessment by a physician periodically as determined by the Department. (10-22-93)

~~eb.~~ Limitations: Incontinent supplies. Incontinent supplies are covered for persons over four (4) years of age only and do not require prior authorization unless the cost is in excess of one hundred dollars (\$100) per month or the recipient needs supplies in excess of the following limitations: ~~(10-22-93)~~(1-1-98)T

- ~~i.~~ Incontinent supplies are covered for persons over four (4) years of age only. (10-22-93)
- ii. Disposable diapers Diapers are restricted in number to: ~~two hundred forty (240) per month, for child's briefs; and one hundred eighty (180) per month for adult's briefs. Effective October 1, 1993, if~~ If the physician documents that additional briefs are medically necessary, the Department or its designee may authorize additional amounts on an individual basis. ~~(12-3-93)~~(1-1-98)T
- iii. Disposable underpads are restricted to one hundred fifty (150) per month. (10-22-93)
- iii. Pullups are only allowed when prior authorized and when it is documented by the physician that the recipient is participating in a toilet training program. (1-1-98)T

~~056.~~ Program Abuse. The use or provision of DME/medical supply items to an individual other than the recipient for which such items were ordered is prohibited. Violators are subject to penalties for program fraud and/or abuse which will be enforced by the Department. The Department shall have no obligation to repair or replace any piece of durable medical equipment that has been damaged, defaced, lost or destroyed as a result of neglect, abuse, or misuse of the equipment. Recipients suspected of the same shall be reported to the SUR/S committee. (10-22-93)

~~067.~~ Billing Procedures. The Department will provide billing instructions to providers of DME/medical supplies. When prior authorization by the Department or its designee is required, a copy of the authorization letter must be attached to the claim form when submitted. the authorization number must be included on the claim form. ~~(11-1-86)~~(1-1-98)T

078. Fees and Upper Limits. The Department will reimburse according to Subsection 060.04 Individual Provider Fees. (12-31-91)

09. Date of Service. Unless specifically authorized by the Department or its designee the date of services for durable medical equipment and supplies is the date of delivery of the equipment and/or supply(s). (1-1-98)T

**107. OXYGEN AND RELATED EQUIPMENT.**

MA will provide payment for oxygen and oxygen-related equipment based upon the Department's fee schedule. Such services are considered reasonable and necessary only ~~with~~ for recipients with significant hypoxemia and certain related conditions. In addition, providers must be eligible for Medicare program participation prior to the issuance of a Medicaid provider number. (11-1-86)(1-1-98)T

01. Medical Necessity Documentation. Oxygen and related equipment are provided only upon the written order of a physician. ~~Once received, such orders will remain in effect for one (1) year and must contain at least the following:~~ that includes the following information: (11-1-86)(1-1-98)T

a. A diagnosis of the disease requiring home oxygen use; and (11-1-86)

b. The flow rate and oxygen concentration; and (11-1-86)

c. An estimate of the frequency and duration of use. A prescription of "oxygen PRN" or "oxygen as needed" is not acceptable; and (11-1-86)(1-1-98)T

d. ~~Request for home use oxygen must contain~~ The laboratory or other evidence prescribed in Subsection 107.02; and (5-1-92)(1-1-98)T

~~i. Age zero (0) to six (6) months of age require physician orders ONLY. (10-22-93)~~

~~ii. Age seven (7) months to twenty (20) years of age require letter of authorization from the EPSDT Program Coordinator as being "medically necessary" if lab studies and MD order are not provided which meet program requirements of Subsection 107.02. (7-1-97)~~

~~iii. Age twenty one (21) or older require lab studies and physician orders. No preauthorization is required. (10-22-93)~~

e. The type of system(s) needed. A portable oxygen system may be covered to complement a stationary system if necessary, or by itself, to provide oxygen for use during exercise by a recipient with exercise-induced hypoxemia. To be considered, a request for a portable oxygen system must include: (10-22-93)(1-1-98)T

i. A description of the activities or exercise routine that a recipient undertakes on a regular basis which requires a portable oxygen system ~~in the home~~; and (11-1-86)(1-1-98)T

ii. A description of the medically therapeutic purpose to be served by the portable system that cannot be served by a stationary system; and (11-1-86)

iii. Documentation that the use of the portable system results in clinical improvement in the recipient's condition. (11-1-86)

02. Laboratory Evidence. Because of the potential for conflict of interest, the results of arterial blood gas and/or oxygen saturation tests conducted by the oxygen supplier cannot be used to establish the recipient's need for home oxygen. This restriction applies to the supplier's employee, its corporate officers, or any associated or related organization. The results must come from tests conducted by a provider who will not benefit financially from a finding of coverage for home oxygen services, and ~~initial~~ final claims for oxygen therapy must include: (11-1-86)(1-1-98)T



a. The results of a blood gas study as evidence of the need of administration of oxygen in the home. This may be either a measurement of the partial pressure of oxygen (PO<sub>2</sub>) in arterial blood or a measurement of arterial oxygen saturation obtained by oximetry. ~~Because of the potential for conflict of interest, the results of arterial blood gas and/or oxygen saturation tests conducted by the oxygen supplier cannot be used to establish the recipients need for home oxygen. This restriction applies to the suppliers' employee, its incorporated officers, or any associated or related organization. The results must come from tests conducted by a provider who will not benefit financially from a finding of coverage for home oxygen services; and~~ (10-22-93)(1-1-98)T

b. The condition under which the studies are performed must be stated, i.e., at rest, while sleeping, while exercising, on room air, or if while on oxygen the amount, body position during testing, and similar information necessary for interpreting the evidence; and (11-1-86)

c. Laboratory evidence of the need for oxygen therapy due to significant hypoxemia will be considered to exist in the following circumstances; (5-1-92)

i. An arterial PO<sub>2</sub> at or below fifty-five (55) mmHg or an arterial oxygen saturation at or below eighty-eight percent (88%), taken at rest, breathing room air; or (7-1-97)

ii. An arterial PO<sub>2</sub> at or below fifty-five (55) mmHg or an arterial oxygen saturation at or below eighty-eight percent (88%) taken during sleep for a patient who demonstrates an arterial PO<sub>2</sub> at or above fifty-six (56) mmHg, or an arterial oxygen saturation at or above eighty-nine percent (89%) while awake or greater than normal fall in oxygen level during sleep (a decrease in arterial PO<sub>2</sub> more than ten (10) mmHg or a decrease in arterial oxygen saturation more than five percent (5%)) associated with symptoms or signs reasonably attributable to hypoxemia, i.e., impairment of cognitive processes and nocturnal restlessness or insomnia. In either of these cases, coverage is provided only for nocturnal use of oxygen; or (7-1-97)

iii. If during exercise it is demonstrated that the oxygen saturation level falls below eighty-eight percent (88%), supplemental oxygen will be provided during exercise if there is evidence that the use of oxygen improves the hypoxemia that was demonstrated during exercise when the patient was breathing room air. (5-1-92)

d. Coverage is provided for patients whose arterial PO<sub>2</sub> is at or above fifty-six (56) mmHg or whose arterial blood oxygen saturation is at or above eighty-nine percent (89%) if there is: (7-1-97)

i. Dependent edema suggesting congestive heart failure; or (11-1-86)

ii. "P" pulmonale on EKG (P wave greater than three (3) mm in standard leads II, III, or AVF); or (7-1-97)

iii. Erthrocythemia with a hematocrit greater than fifty-six percent (56%); or ~~(11-1-86)~~(1-1-98)T

iv. A diagnosis of cluster headaches which has not responded to medications and there is documentation of successful treatment on a trial basis in the emergency room or physician's office. (1-1-98)T

v. Lab studies are not required for recipients age zero (0) to six (6) months. (1-1-98)T

03. Prior Authorization. Prior authorization for oxygen is required by the Department or its designee for the following: (1-1-98)T

a. Recipients age seven (7) months to twenty (20) years of age if there is a physician's order but lab study requirements of Subsection 107.02 are not met. (1-1-98)T

b. When the diagnosis is cluster headaches or other condition listed in Subsection 107.02.d. (1-1-98)T

034. Service Exclusions. Payment is excluded in the following circumstances: (11-1-86)

a. Recipients with angina pectoris in the absence of hypoxemia; and (11-1-86)

- b. Recipients who experience breathlessness without cor pulmonale or evidence of hypoxemia; and (11-1-86)
- c. Recipients with severe peripheral vascular disease resulting in clinically evident desaturation in one (1) or more extremities; and (7-1-97)
- d. Recipients with terminal illnesses that do not affect the lungs. (11-1-86)

~~045. Recipients Currently Receiving Home Oxygen. Below are the recertification requirements for recipients currently receiving home oxygen: Recertification. The Department will continue to pay for existing oxygen services according to the following guidelines:~~ (7-1-97)(1-1-98)T

~~a. Recertification is required three (3) months after initial certification (i.e., with the fourth month's claim) in patients: at least every twelve (12) months. If the physician's initial estimate of length of need is less than one (1) year, then recertification is required after the initial certification based on the physician's order.~~ (7-1-97)(1-1-98)T

~~i. Whose arterial PO<sub>2</sub> was fifty-six (56) mmHg or greater, or whose oxygen saturation was eighty-nine percent (89%) or greater on the initial certification, or~~ (7-1-97)

~~ii. In whom the physician's initial estimate of length of need for oxygen was one (1) to three (3) months.~~ (7-1-97)

~~b. For those patients for whom recertification at three (3) months is not required, recertification will be required by twelve (12) months after initial certification (i.e. by the thirteenth month's claim).~~ (7-1-97)

~~eb. Once one (1) certification establishes the medical necessity for continued use of home oxygen, subsequent recertification will not be routinely required. An annual recertification for oxygen is not required once it has been established that in chronic cases the duration of use is lifetime. The physician's order must indicate the length of need is lifetime to meet this requirement. However, recertification is required if there is a change in the flow rate that increases the amount of oxygen that may be billed. Documentation of a decrease in blood gas levels or atrial oxygen saturation by oximetry must be attached to the claim;~~ (7-1-97)(1-1-98)T

~~ec. Initial certification and three (3) month recertification required because of initial PO<sub>2</sub> of fifty-six (56) mmHg or greater or oxygen saturation of eighty nine percent (89%) or greater must include the results of a recently performed arterial blood gas (ABG) or oximetry test. For other recertification, retesting is not required, but the results of the most recent ABG or oximetry test representing the patient's chronic stable state must be included on the form. If recertification is required, laboratory requirement in Subsection 107.02 must be met.~~ (7-1-97)(1-1-98)T

~~ed. The Department may require subsequent recertification in individual cases.~~ (7-1-97)

~~056. Cost Considerations. The Department will work with the physician, provider, and recipient to provide payment for the most cost-effective oxygen system that will meet the recipient's needs.~~ (11-1-86)

### **108. AUDIOLOGY SERVICES.**

The Department will pay for audiometric services and supplies in accordance with the following guidelines and limitations: (10-1-91)

01. Audiology Examinations. When specifically ordered by a physician, all recipients are eligible for audiometric examination and testing once in each calendar year. Basic audiometric testing by certified audiologists and/or licensed physicians will be covered without prior approval. (10-1-91)

02. Additional Testing. Any hearing testing beyond the basic comprehensive audiometry and impedance testing must be ordered in writing before the testing is done. A copy of the physician's order must be attached to the claim for payment. (10-1-91)

03. Hearing Aids. The Department will cover the purchase of one (1) hearing aid per recipient with the

following requirements and limitations: (10-1-91)

- a. All hearing aid purchases require prior authorization from the Department or its designee.  
(~~10-22-93~~)(1-1-98)T
  - b. The following information shall be included with the request for preauthorization: the recipient's diagnosis, prognosis, the results of the basic comprehensive audiometric exam which includes pure tone, air and bone conduction, speech reception threshold, most comfortable loudness, discrimination and impedance testing, the brand name and model type needed. However, the Department will allow medical doctors to forego the impedance test based on their documented judgement. (7-1-97)
  - c. Covered services included with the purchase of the hearing aid include proper fitting and refitting of the ear mold and/or aid during the first year, instructions related to the aid's use, and extended insurance coverage for two (2) years. (10-22-93)
  - d. The following services may be covered in addition to the purchase of the hearing aid without prior authorization: batteries purchased on a monthly basis, follow-up testing, necessary repairs resulting from normal use after the second year and the refitting of the hearing aid or additional ear molds no more often than forty-eight (48) months from the last fitting. (7-1-97)
  - e. Lost, misplaced, stolen or destroyed hearing aids shall be the responsibility of the recipient. The Department shall have no responsibility for the replacement of any hearing aid. In addition, the Department shall have no responsibility for the repair of hearing aids that have been damaged as a result of neglect, abuse or use of the aid in a manner for which it was not intended. (7-1-97)
04. Payment Procedures. The following procedures shall be followed when billing the Department: (10-1-91)
- a. The Department will only pay the hearing aid provider for an eligible Medicaid recipient if a properly completed claim is submitted to the Department within the one (1) year billing limitation. (10-22-93)
  - b. Payment will be based upon the Department's fee schedule (See Subsections 060.04 and 060.05). (12-31-91)
05. Limitations. The following limitations shall apply to audiometric services and supplies: (10-1-91)
- a. Hearing aid selection is restricted to the type and model which the Bureau has prior approved. (10-22-93)
  - b. Follow-up services are included in the purchase of the hearing aid for the first two (2) years including, but not limited to, repair, servicing and refitting of ear molds. (7-1-97)
  - c. Providers are required to maintain warranty and insurance information on file on each hearing aid purchased from them by the Department and are responsible for exercising the use of the warranty or insurance during the first year following the purchase of the hearing aid. (7-1-97)
  - d. Providers shall not bill recipients for charges in excess of the fees allowed by the Department for materials and services. (7-1-97)
  - e. Audiology services will be a benefit for EPSDT eligible recipients under the age of twenty-one (21) (See Section 100). (12-31-91)

**(BREAK IN CONTINUITY OF SECTIONS)**

**122. VISION SERVICES.**

The Department will pay for vision services and supplies in accordance with the guidelines and limitations listed below. All eyeglass frames and lenses provided to Medicaid recipients and paid for by the Medicaid Program will be purchased from the supplier designated by the Department. (7-1-97)

01. Eye Examinations. The Department will pay participating physicians and optometrists for one (1) eye examination during any twelve (12) month period for each eligible recipient to determine the need for glasses to correct a refractive error. Each eligible MA recipient, following a diagnosis of visual defects and a recommendation that eyeglasses are needed for correction of a refractive error, can receive eyeglasses within Department guidelines (See Section 100). (12-31-91)

02. Lenses. Lenses, single vision or bifocal will be provided when there is documentation that the correction need is equal to or greater than plus or minus one-half (.50) diopters. (10-29-92)

a. Polycarbonate lenses will be purchased only when there is clear documented evidence that the thickness of the plastic lenses precludes their use (prescriptions above plus or minus two (2) diopters of correction) and requires prior authorization by the Department or its designee. ~~(1-1-97)F(1-1-98)T~~

b. Scratch resistant coating is required for all plastic and polycarbonate lenses. (1-1-97)T

c. Payment for tinted lenses will only be made when there is a diagnosis of albinism or in the case of other extreme medical conditions as defined by the Department. Prior authorization is required by the Department or its designee. ~~(1-1-97)F(1-1-98)T~~

d. Contact lenses will be covered only with documentation that an extreme myopic condition requiring a correction equal to or greater than minus four (-4) diopters, cataract surgery, keratoconus, or other extreme conditions as defined by the Department that preclude the use of conventional lenses. Prior authorization is required by the Department or its designee. ~~(1-1-97)F(1-1-98)T~~

03. Replacement Lenses. Replacement lenses shall be purchased ~~from qualified providers~~ only with documentation of a major visual change as defined by the Department. Statements of major visual change shall include documentation of a visual refraction change of at least one-half (.50) diopter plus or minus. ~~(10-1-91)(1-1-98)T~~

04. Frames. Frames will be purchased ~~from qualified providers~~ according to the following guidelines: ~~(10-1-91)(1-1-98)T~~

a. One (1) set of frames will be purchased by the Department not more often than once every four (4) years for eligible recipients; (10-1-91)

b. Except when it is documented by the physician that there has been a major change in visual acuity that cannot be accommodated in lenses that will fit in the existing frames, new frames also may be authorized. (10-22-93)

05. Glasses. Replacement of broken, lost, or missing glasses shall be the responsibility of the recipient. (1-1-97)T

06. Payment for Non Covered Services. A Medicaid Provider may receive payment from a Medicaid recipient for vision services that are either not covered by the Idaho Medicaid State Plan, or include special features or characteristics that are desired by the recipient but are not medically necessary. Non covered items include Trifocal lenses, Progressive lenses, photo gray, and tint. (1-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**124. PROSTHETIC AND ORTHOTIC SERVICES.**

The Medical Assistance Program will purchase and/or repair medically necessary prosthetic and orthotic devices and related services which artificially replace a missing portion of the body or support a weak or deformed portion of the body within the limitations established by the Department. (10-1-91)

01. Required Physician Orders. Prosthetic and orthotic devices and services will be paid for only if prescribed by a physician and ~~preauthorized~~ prior authorized by the Department or its designee. The following information shall be provided with the physician's orders: ~~(10-1-91)~~(1-1-98)T

- a. A full description of the services requested; and (10-1-91)
- b. Number of months the equipment will be needed and the recipient's prognosis; and (10-1-91)
- c. The recipient's medical diagnosis and the condition which requires the use of the prosthetic and/or orthotic services, supplies, equipment and/or modifications; and (10-1-91)
- d. All modifications to the prosthetic or orthotic device must be supported by the attending physician's description on the prescription; and (10-1-91)
- e. Requests lacking the required information shall be denied and returned to the applicant. (10-1-91)

02. Program Requirements. The following program requirements will be applicable for all prosthetic and orthotic devices or services authorized by the Department or its designee: ~~(10-1-91)~~(1-1-98)T

- a. A temporary lower limb prosthesis shall be authorized ~~by the Department~~ when documented by the attending physician that it is in the best interest of the recipient's rehabilitation to have a temporary lower limb prosthesis prior to a permanent limb prosthesis. A new permanent limb prosthesis shall only be requested after the residual limb size is considered stable; ~~(10-1-91)~~(1-1-98)T
- 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; (10-1-91)
- c. All prosthetic and orthotic devices that require fitting shall be provided by an individual who is certified or registered by the American Board for Certification in Orthotics and/or Prosthetics; (10-1-91)
- d. All equipment that is purchased must be new at the time of purchase. Modification to existing prosthetic and/or orthotic equipment will be covered by the Department; (10-1-91)
- e. Prosthetic limbs purchased by the Department shall 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 recipient; (10-1-91)
- f. Prosthetic and/or orthotic equipment actually supplied to the recipient shall be the equipment approved by the Department or its designee; ~~(10-1-91)~~(1-1-98)T
- g. Not more than ninety (90) days shall elapse between the time the attending physician orders the equipment and the preauthorization request is presented to the Department or its designee for consideration; ~~(10-1-91)~~(1-1-98)T
- h. A reusable prosthetic or orthotic device purchased by the Department will remain the property of the Department and return of the device to the Department may be required when: (10-1-91)
  - i. The recipient no longer requires the use of the device; or (10-1-91)
  - ii. The recipient expires. (10-1-91)

03. Program Limitations. The following limitations shall apply to all prosthetic and orthotic services and equipment: (10-1-91)

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; (10-1-91)

b. Refitting, repairs or additional parts shall be limited to once per calendar year for all prosthetics and/or orthotics unless it has been documented that a major medical change has occurred to the limb, and ordered by the attending physician; (10-1-91)

c. All refitting, repairs or alterations require preauthorization based on medical justification by the recipient's attending physician; (10-1-91)

d. Prosthetic and orthotic devices provided for cosmetic or convenience purposes shall not be covered by the Department. ~~These items include, but are not limited to, breast implants, penile implants and artificial eyes;~~ (10-1-91)(1-1-98)T

e. Electronically powered or enhanced prosthetic devices are not covered by the program; (10-1-91)

f. The Department or its designee will only authorize corrective shoes or modification to an existing shoe owned by the recipient when they are attached to an orthosis or prosthesis or when specially constructed to provide for a totally or partially missing foot; (10-1-91)(1-1-98)T

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 under the program; and (10-1-91)

h. Corsets are not a benefit of the program nor are canvas braces with plastic or metal bones. However, special braces enabling a patient 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. (10-1-91)

04. Billing Procedures. The Department will provide billing instruction to providers of prosthetic or orthotic services. ~~A copy of the~~ The preauthorization number must be ~~attached to~~ included on the claim form when submitted. (10-1-91)(1-1-98)T

05. Fees and Upper Limits. The Department will reimburse according to Subsection 060.04. (12-31-91)

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

**16.04.14 - RULES GOVERNING THE LOW INCOME  
HOME ENERGY ASSISTANCE PROGRAM**

**DOCKET NO. 16-0414-9701**

**NOTICE OF VACATION OF TEMPORARY RULES**

**AUTHORITY:** In compliance with Sections 67-5221, Idaho Code, notice is hereby given this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 39-106(l) and 56-202 (b), Idaho Code.

**DESCRIPTIVE SUMMARY:**

Docket No. 16-0414-9701 is vacated effective November 1, 1997. The chapter is being repealed under Docket No. 16-0414-9702 and rewritten under Docket No. 16-0414-9703.

**SUBMISSION OF WRITTEN COMMENTS, ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation, contact Patti Campbell at (208) 334-5819.

DATED this 5th day of November, 1997.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.04.14 - RULES GOVERNING LOW INCOME HOME ENERGY ASSISTANCE PROGRAM**  
**DOCKET NO. 16-0414-9702**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective November 1, 1997.

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

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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:** This chapter is being repealed in its entirety and being rewritten under Docket No. 16-0414-9703, published in this bulletin.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 26, 1997.

DATED this 5th day of November, 1997.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 334-5548 fax

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**THIS RULE IS BEING REPEALED IN ITS ENTIRETY**



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.04.14 - RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM**  
**DOCKET NO. 16-0414-9703**  
**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective November 1, 1997.

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

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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

**DESCRIPTIVE SUMMARY:** The Department is proposing to rewrite IDAPA 16.04.14, Rules Governing the Low Income Home Energy Assistance Program to comply with Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) as amended in the Human Services Amendments of 1994 (Public Law 103-252), to remove procedural information and provide rule clarity.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell, at (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before November 26, 1997.

DATED this 5th of November, 1997.

Sherri Kovach  
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DHW - Division of Legal Services  
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**TEXT OF DOCKET NO. 16-0414-9703**

**IDAPA 16**  
**TITLE 04**  
**Chapter 14**

**16.04.14 - RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM**

**000. LEGAL AUTHORITY.**

This program is authorized by Section 2602, Title XXVI, Pub. L. No. 97-203, also known as the Low-Income Home Energy Assistance Act of 1981, and by provisions of Sections 56-202 and 56-203, Idaho Code, which authorize the Department of Health and Welfare to assist low-income people of the state with financial assistance and to enter into contracts with the federal government to provide assistance. (11-1-97)T

**001. TITLE AND SCOPE.**

01. Title. These rules are to be cited in full as Idaho Department of Health and Welfare Rules, IDAPA 16, Title 04, Chapter 14, "Rules Governing the Low Income Home Energy Assistance Program." (11-1-97)T

02. Scope. The intent of the program is to provide assistance to eligible low income households particularly those with the lowest incomes, that pay the highest proportion of their income for home energy, primarily in meeting their immediate home energy needs. (11-1-97)T

03. Program Limitation. This federally funded program does not entitle any household to a certain amount or form of assistance. (11-1-97)T

**002. POLICY.**

It is the policy of the Idaho Department of Health and Welfare, to serve the citizens of Idaho and to distribute the Low Income Home Energy Assistance benefits in accordance with acceptable standards. An eligible participant household will receive one (1) benefit payment from the regular program assistance and may be eligible to receive an additional benefit payment when an energy crisis situation exists which may be health threatening to the household members. (11-1-97)T

**003. DEFINITIONS.**

Definitions applicable to IDAPA 16, Title 04, Chapter 14 are listed in Subsections 003.01 through 003.23. (11-1-97)T

01. Application. The action by which a participant indicates in writing to the Department a desire to receive Low Income Home Energy Assistance. The participant will be designated as the head of household on the application; and will be the recipient of benefits for the household. (11-1-97)T

02. Community Action Agency. A private non-profit organization serving the low income population in specified counties of the state with which DHW has entered into a contract for the provision of services for purposes of LIHEAP. (11-1-97)T

03. Crisis Intervention. Energy assistance provided to an eligible participant household to reduce/eliminate an energy related health threatening situation to the household. (11-1-97)T

04. Department. The Department of Health and Welfare. (11-1-97)T

05. Eligible Participant Household. A participant household which meets the standard of eligibility set forth in these rules. (11-1-97)T

06. Eligible Subsidized Housing. Public subsidized rental housing in which the tenant is responsible for

- all or a portion of their home energy costs. (11-1-97)T
07. Energy Burden. The expenditures of the participant household for home energy when compared to the household's income. (11-1-97)T
08. Energy Supplier. A vendor supplying home heating energy who is not a member of an eligible participant household. (11-1-97)T
09. Fraud. Recipient fraud is indicated where there appears to be a deliberate attempt to conceal or misrepresent pertinent information which could affect eligibility or grant amounts. (11-1-97)T
10. Fuel. A latent form of energy used to produce residential heat. (11-1-97)T
11. Head of Participant Household. The person designated by the household members to receive energy assistance benefit in behalf of the household and in whose favor the energy assistance warrant is written. (11-1-97)T
12. Highest Home Energy Needs. The home energy requirements of participant household determined by taking into account both their energy burden and unique situation that results from having members of vulnerable populations, including very young children, individuals with disabilities and frail older individuals. (11-1-97)T
13. Income. Income is the gross amount of moneys actually received in the participant household from all sources outlined in the Department WEB Operational Manual. (11-1-97)T
14. Ineligible Subsidized Housing. Public housing in which tenants' rental payments include all home energy costs. (11-1-97)T
15. Overpayment. An incorrect energy assistance payment. (11-1-97)T
16. Participant. An individual or group of individuals which has made application for the Low Income Home Energy Program from the state of Idaho. (11-1-97)T
17. Participant Household. A household is one of the following: (11-1-97)T
- a. An individual living alone; or (11-1-97)T
- b. A group of individuals who are living together as one (1) economic unit where residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent. (11-1-97)T
18. Primary Fuel. The type of fuel declared by the participant household to be the major source of their home heating. (11-1-97)T
19. Proof of Income. Documentary proof to establish the participant household's financial eligibility for assistance. (11-1-97)T
20. Vendor. An energy supplier or utility supplying home energy and who is not a member of an eligible participant household. (11-1-97)T
21. Warrant. The document issued by the Department through the State Controller's Office as the benefit payment to LIHEAP eligible participant households. (11-1-97)T
22. Wood User. An individual who cuts or buys wood for use as the primary source of home heat. Such participant households will receive a one (1) party warrant. (11-1-97)T
23. Utility. A vendor of energy regulated by the Idaho Public Utilities Commission. (11-1-97)T

**004. ABBREVIATIONS.**

Abbreviations applicable to IDAPA 16, Title 4, Chapter 14 are listed in Subsections 004.01 through 004.08.

- (11-1-97)T
01. AABD. Aid to the Aged, Blind, and Disabled. (11-1-97)T
  02. CAA. The Community Action Agency. (11-1-97)T
  03. Department. The Department of Health and Welfare. (11-1-97)T
  04. FS. The Food Stamp program. (11-1-97)T
  05. LIHEAP. The Low Income Home Energy Assistance Program. (11-1-97)T
  06. OMB. The Federal Office of Management and Budget. (11-1-97)T
  07. SSI. The Supplemental Security Income Program. (11-1-97)T
  08. TAFI. Temporary Assistance to Families in Idaho. (11-1-97)T

**005. FORMS - BY NUMBER AND A NAME.**

For the purposes of determining participant LIHEAP eligibility, Department prescribed forms will be used.

(11-1-97)T

**006. -- 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. Each decision justifying a participant household is eligible or ineligible for LIHEAP benefits, must be 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.

(11-1-97)T

**101. ELIGIBLE ACTIVITIES.**

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

(11-1-97)T

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. (11-1-97)T

02. Emergency Crisis Intervention Costs. A portion of the LIHEAP grant funds are reserved 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. (11-1-97)T

03. Low-cost Residential Weatherization. Funds reserved for weatherization services to low-income households pursuant to Department of Energy, Weatherization Assistance Program Regulations, when in accordance with federal LIHEAP Regulations. (11-1-97)T

**102. PARTICIPANT RIGHTS.**

The participant has rights protected by federal and state laws and Department rules. The Department or their designee must inform the participant of their rights during the application process and eligibility determination, as follows:

(11-1-97)T

01. Right to Apply. Any participant household wishing to apply must be given the opportunity, without delay, to apply for LIHEAP benefits. All participants must apply in writing. (11-1-97)T

02. Right to a Hearing. Rules governing hearing rights are contained in Idaho Department of Health

and Welfare Rules, IDAPA 16, Title 05, Chapter 03, Sections 300, et seq., and Section 503, "Rules Governing Contested Cases and Declaratory Rulings." (11-1-97)T

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 which violate a person's privacy or subjection to harassment. (11-1-97)T

**103. PARTICIPANT RESPONSIBILITIES.**

Each participant applying for LIHEAP benefits must, to the extent permitted by their physical and mental condition, provide all necessary and reasonable verification to establish eligibility, and must otherwise cooperate in the eligibility determination process. (11-1-97)T

**104. RELATIONSHIP TO OTHER PROGRAMS.**

LIHEAP benefits paid to eligible participant households must 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. (11-1-97)T

**105. -- 149. (RESERVED).**

**150. ELIGIBILITY REQUIREMENTS AND COLLATERAL CONTACTS.**

All participant households assisted through LIHEAP must provide proof of both financial eligibility requirements and non-financial eligibility requirements. (11-1-97)T

01. Failing to Meet the Financial and Non-Financial Eligibility. Participant households failing to meet the financial and non-financial eligibility requirements will be denied LIHEAP assistance. (11-1-97)T

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). (11-1-97)T

**151. INCOME ELIGIBILITY REQUIREMENTS.**

Assistance under this program is limited to participant households with gross income at or below one hundred and thirty percent (130%) of the current OMB Poverty Guidelines, which are in affect at the start of the program year. Participant households must provide proof of income for all members during the application process. (11-1-97)T

01. When Income Considered. For the purpose of determining LIHEAP eligibility and benefit amount, participant household income which is received at least monthly, income received in the three (3) month period prior to the date of their application, will be used. (11-1-97)T

02. Income Which Is Received Less Frequently Than Monthly. For household income which is received less frequently than monthly, including seasonal and self-employment income, their annual income amount will be converted by dividing the total amount by four (4) to get an average three (3) month amount to be used. (11-1-97)T

03. Treatment of Alien Resident Income. If a household includes both eligible and persons ineligible by virtue of their resident alien status, and one (1) or more of the ineligible participants had income during the period being reported, the ineligible participants' income will be included to determine the household's eligibility. (11-1-97)T

**152. NONFINANCIAL ELIGIBILITY REQUIREMENTS.**

For the purpose of assistance under LIHEAP, the participant household must meet the following non-financial eligibility requirements. (11-1-97)T

01. Residence. At the time the application is completed, the participant must reside in the state of Idaho. There is no durational residence requirement. LIHEAP benefits are not transferable to an out-of-state residence. (11-1-97)T

02. Living Situation. The participant household must reside in housing where they are vulnerable to a home energy cost and incur the costs either directly or as an undesignated portion of their rent. Living situation not vulnerable to energy costs include, hospitals; nursing homes; shelter homes, commercial boarding homes, and rehabilitation center. (11-1-97)T

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: (11-1-97)T

a. Tribal funds are not available. (11-1-97)T

b. Funds are depleted and an emergency exists. (11-1-97)T

04. Resident Status. Participants must be citizens of the United States. As part of the application process, participants must sign a declaration, under penalty of perjury, attesting to citizenship status of all household members. (11-1-97)T

05. Energy Conservation Education. As part of the application for LIHEAP assistance, the participant must participate in an energy conservation education session. (11-1-97)T

06. Residential Weatherization Energy Audit. Participant households must agree to have an energy audit performed on their residence to determine weatherization needs of the dwelling. When one (1) or more of the following conditions exist, a waiver to the energy audit will be granted to the household: (11-1-97)T

a. The participant household residence has previously been weatherized by the CAA. (11-1-97)T

b. The participant household does not own their residence and is unable to obtain an agreement from the property owner. (11-1-97)T

c. The participant household can document the existence of a medical or other condition which prohibits the CAA from performing the energy audit on their residence. (11-1-97)T

**153. -- 199. (RESERVED).**

**200. INTAKE PROCESS.**

Low-income participants may complete an application for LIHEAP benefits at a CAA. The CAA will submit the participant household information contained on the application to the Department on-line computer system for issuance of eligibility notification. (11-1-97)T

**201. APPLICATION PROCESS.**

A participant must be provided a prompt opportunity to complete an application for assistance. Application forms must contain a statement which clearly explains participant's civil and criminal liability for the truthfulness of the information included on the forms; and their right to a hearing according to Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings." (11-1-97)T

01. Date of Application. The participant application process begins the date the completed and signed application and all supporting forms are received by the CAA. (11-1-97)T

02. Participant Representation. A participant household may be assisted by a person or persons of their choice and, when accompanied by such persons, may be represented by them. (11-1-97)T

03. Signature. The application must be signed by the participant designated at the head of household, or their designee. (11-1-97)T

a. The designee's signature must be followed by his address, if different from that of the participant household, and by the word "designee." (11-1-97)T

b. Employees of the CAA or the Department must not be designated to sign the application. (11-1-97)T

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." (11-1-97)T

05. Assistance with Application. When completing the application forms or obtaining required documentation, each participant must be provided assistance from the CAA, including the provision for interpreters for participant households with limited or non-English speaking skills. (11-1-97)T

**202. APPLICATION TIME LIMITS AND DISPOSAL ACTIONS.**

Unless circumstances beyond the control of the Department 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 must be disposed of by one (1) of the following three (3) methods: (11-1-97)T

01. Approval. A determination the participant household is eligible for LIHEAP benefits. (11-1-97)T

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. (11-1-97)T

03. Withdrawal. The participant household voluntarily requests that no further consideration be given to their application or the participant becomes deceased. (11-1-97)T

**203. NOTIFICATION OF DECISION.**

Each participant household must be notified, in writing, of the decision made with regard to their LIHEAP application for assistance. (11-1-97)T

01. Approvals. At the time 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. (11-1-97)T

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. (11-1-97)T

**204. BENEFIT DETERMINATION.**

Eligible participant households will have their benefit amount determined according to their income, county of residence, source of home energy, energy burden, and energy needs based upon the household's unique situation i.e. children under six (6) years of age, individuals with disabilities and frail individuals sixty (60) years of age or older. (11-1-97)T

**205. METHOD OF PAYMENT.**

There are three (3) methods for paying LIHEAP benefits to eligible participant households. Each payment is based on the source of the home energy and whether the energy cost is paid by the participant directly or indirectly. (11-1-97)T

01. Direct Payment to Energy Supplier. (11-1-97)T

02. Two-Party Payment. (11-1-97)T

03. One-Party Payment. (11-1-97)T

**206. -- 299. (RESERVED).**

**300. CONDITION OF PAYMENT ENDORSEMENT.**

When an eligible participant household receives a LIHEAP benefit payment directly, they must endorse it and take it

to their designated energy supplier. Two-party payments will have the name of the energy supplier imprinted on the face of the warrant. When an eligible participant and their energy supplier endorse the LIHEAP benefit payment, they certify that to the best of their knowledge, the funds are being used to provide home energy for the eligible participant household. (11-1-97)T

**301. VENDOR AGREEMENTS.**

All participating energy suppliers must enter into a vendor agreement with the Department to provide home energy assistance to eligible participant households. (11-1-97)T

**302. OVERPAYMENTS.**

All overpayments a participant household is not eligible to receive must be repaid to the Department. (11-1-97)T

**303. -- 994. (RESERVED).**

**995. PROVISIONS CONTINGENT UPON FEDERAL FUNDING.**

The provisions in Sections 000 through 999 inclusive, are contingent upon availability and receipt of funds appropriated through federal legislation. When federal funds are not available to the state of Idaho, these provisions or any part therein shall be considered dormant and there may be no advance notice of termination or reduction of benefits may be disposed. In the event that additional funds are available a supplemental payment can be made, in an equitable manner, to each eligible household at the discretion of the Director. (11-1-97)T

**996. -- 999. (RESERVED).**



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES**

**DOCKET NO. 16-0601-9701**

**NOTICE OF TEMPORARY RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 39-105(l), 39-106(l)(a), 56-202(b), 56-203(b) and 56-204(a), Idaho Code.

**DESCRIPTIVE SUMMARY:** Adjustments are being made as a result of the federal IV-A program which is no longer in existence. This rule change eliminates the federal IV-A requirements and simplifies the emergency assistance program for families served by Family and Children's Services.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rules, contact Roseanne Hardin at (208) 334-5680.

DATED this 5th day of November, 1997.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
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**TEXT OF DOCKET NO. 16-0601-9701**

**010. DEFINITIONS AND ABBREVIATIONS.**

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

(11-16-95)T

01. AFDC (Aid to Families with Dependent Children). Federal/state-supported income maintenance program for persons with limited income and assets who are determined to be eligible by the Department's local offices. Federal funds are allocated under Title IV-A of the Social Security Act. When used with regard to eligibility for social services, this term includes recipients of AFDC and those persons whose needs are taken into account when determining their eligibility. (11-16-95)T

02. AFDC-FC (Aid to Families with Dependent Children-Foster Care). Child care provided in lieu of parental care in a foster home, children's agency or institution eligible to receive Aid to Dependent Children under Title IV-E of the Social Security Act. (11-16-95)T

03. A/R. Applicant for or recipient of services. (11-16-95)T

04. Adoption Assistance. Funds provided to adoptive parents of children who have special needs and/or could not be adopted without financial or medical assistance. (11-16-95)T
05. Adoption Services. Protective service through which children are provided with permanent homes, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the birth parent-child relationship. (11-16-95)T
06. Alternate Care. Temporary living arrangements, when necessary for a child to leave his own home, through a variety of foster care, respite care, residential treatment and institutional resources, in accordance with the protections established in public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980" as amended, the Child Protective Act, Section 16-1601 et seq., Idaho Code, and the Indian Child Welfare Act. (11-16-95)T
07. Board. The Idaho State Board of Health and Welfare. (11-16-95)T
08. Case Management. A change oriented service to families that assures and coordinates the provision of family assessment, case planning, treatment and other services, protection, advocacy, review and reassessment, documentation and timely closure of a case. (11-16-95)T
09. Case Plan. See "Family Plan." (11-16-95)T
10. Central Office. The state level administrative office of the Department of Health and Welfare located in Boise, Idaho. (11-16-95)T
11. Child Protection. All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare, including runaways who are harmed or threatened with harm by virtue of their status, through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing or shelter shall be served without regard to income. Developmentally disabled or emotionally disturbed children who are committed to the Department for out-of-home placement shall be served without regard to income. (11-16-95)T
12. Child Protective Services. Services provided in response to potential, alleged or actual abuse, abandonment or neglect of individuals under the age of eighteen (18) in accordance with the provisions of Section 16-1601 et seq., Idaho Code, the "Child Protective Act." (11-16-95)T
13. Compact Administrator. The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-21-1 et seq., Idaho Code; "Interstate Compact on the Placement of Children," Section 16-1901 et seq., Idaho Code; or the "Interstate Compact on Mental Health," Section 66-1201 et seq., Idaho Code; or the "Interstate Compact on Adoption and Medical Assistance," Section 39-7501 et seq. Idaho Code. (11-16-95)T
14. DHW Regions. Seven (7) geographically defined regions which serve as administrative units for the delivery of social services through local Department local offices. (11-16-95)T
15. Day Care for Children. Direct care and/or protection for children within or outside of the home when the custodial or developmental needs of the child are not being met by the family for any portion of a twenty-four (24) hour day. (11-16-95)T
16. Day Treatment Services. Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational and family interventions provided on a regularly scheduled, typically daily, basis. (11-16-95)T
17. Department. The Idaho Department of Health and Welfare. (11-16-95)T
18. Director. The Director of the Department of Health and Welfare or designee. (11-16-95)T
19. Emergency Assistance To Families. Social services, emergency payments and placement services

authorized by FACS social workers for ~~Title IV-A~~ Emergency Assistance eligible families to meet emergency need. (11-16-95)T(7-1-97)T

20. Extended Family Member. As defined by the law, or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (11-16-95)T

21. FFP. Federal Financial Participation. (11-16-95)T

22. Family. Related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (11-16-95)T

23. Family and Children's Services (FACS). Those programs and services directed to families and children, administered by the Department and provided in accordance with these rules. (11-16-95)T

24. Family Assessment. An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and/or safety issues that threaten family integrity, unity or the ability to care for their members. (11-16-95)T

25. Family Case Record. Compilation of all documents relating to a family's case. (11-16-95)T

26. Family Centered Services. An approach to the delivery of social services that focuses on families rather than individuals. Services are based on assessment of the entire family and a negotiated family plan designed to strengthen and maintain the family, while ensuring the protection of children and the safety of their communities. (11-16-95)T

27. Family Plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders and/or leaders should be consulted early in the plan development. (11-16-95)T

28. Family Services Worker. Any of the direct service personnel, including social workers, psychologists, counselors and family therapists, working in regional Family and Children's Services Programs. For purposes of pre-placement home studies, adoption home studies, reports to the court under the Termination and Adoption Acts, and Placement Supervision Reports, "family services workers" also include licensed counselors or psychologists, or individuals who have at least bachelor's degrees in social work, marriage and family therapy, or other social sciences. (11-16-95)T

29. Field Office. A Department of Health and Welfare service delivery site. (11-16-95)T

30. Goal. A long-range statement of what is to be accomplished to succeed in the direction of the mission of the program. (11-16-95)T

31. Indian. Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (11-16-95)T

32. Indian Child. Any unmarried person who is under the age of eighteen (18) who is: (11-16-95)T

a. A member of an Indian tribe, or (11-16-95)T

b. Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. (11-16-95)T

33. Indian Child Welfare Act (ICWA). The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (11-16-95)T

34. Indian Child's Tribe. (11-16-95)T
- a. The Indian tribe in which an Indian child is a member or eligible for membership; or (11-16-95)T
- b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (11-16-95)T
35. Indian Tribe. Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (11-16-95)T
36. Information and Referral Services. A service which enables individuals to gain access to human services through providing accurate, current information on community and Department resources. While information and referral is not a separate service of the Department it is provided as a component of most social service programs. Information and referral services will be provided without regard to income. (11-16-95)T
37. Job Opportunities and Basic Skills Training Program (JOBS). The training and employment program established for recipients of aid to dependent children by the Family Support Act of 1988 and provided in Idaho Department of Health and Welfare Rules. (11-16-95)T
38. Job Search Assistance Program (JSAP). The training and employment program established for food stamp recipients by the Hunger Prevention Act of 1988 and provided in accordance with Idaho Department of Health and Welfare Rules. (11-16-95)T
39. Licensed. Facilities or programs being licensed in accordance with the provisions of Idaho Department of Health and Welfare Rules, Title 06, Chapter 02, "Rules and Standards for Child Care Licensing." (11-16-95)T
40. Licensing. See Idaho Department of Health and Welfare Rules, IDAPA 16.06.02, "Rules and Standards for Child Care Licensing," Section 100. (11-16-95)T
41. Medicaid. See "Title XIX," defined in Subsection 004.38. (11-16-95)T
42. Medicare. See "Title XVIII," defined in Subsection 004.39. (11-16-95)T
43. Multiethnic Placement Act of 1994 (MEPA). MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color or national origin. (11-16-95)T
44. Needs Assessment. First step in the planning process which results in systematic documentation of existing conditions in relationship to desired conditions taking into consideration the number of individuals or families who are receiving services and the number who remain unserved. (11-16-95)T
45. Objective. Statement of measured and specific progress toward a goal to be achieved during a stated period of time. (11-16-95)T
46. Permanency Planning. A primary function of family services initiated in all cases to identify programs, services and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (11-16-95)T
47. P.L. 96-272. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980." Section 422 requires states to implement a case review system to protect children in alternate care under the supervision of the state. (11-16-95)T
48. Planning. An orderly rational process which results in identification of needs and formulation of strategies to fulfill such needs, within resource constraints. (11-16-95)T

49. Prevention. Programs, services and activities aimed at preventing child protective and severe behavioral and emotional problems. Prevention services are developed and provided by FACS in coordination with other statewide and community organizations as resources are available. (11-16-95)T
50. Protective Services. To provide assistance in response to potential, actual or alleged neglect, abuse or exploitation of children. (11-16-95)T
51. Purchase of Services. Provision of services to clients by local agencies or individuals who contract with DHW. (11-16-95)T
52. Qualified Expert Witness--ICWA. A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (11-16-95)T
- a. A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; (11-16-95)T
- b. An individual who is not a tribal member who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; (11-16-95)T
- c. A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community; or (11-16-95)T
- d. An individual regarded as being a qualified expert who is referred by the Indian child's tribe, the Department's ICWA Specialist, or the Bureau of Indian Affairs. (11-16-95)T
53. Regional Office. Department office located in one (1) of seven (7) areas of the state which comprises a geographically defined service area for the administration and delivery of the Department's services. (11-16-95)T
54. Reservation. Indian country as defined in 18 U.S.C. Section 1151, and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. Such term includes but is not limited to the Kootenai Reservation, the Coeur d'Alene Reservation, the Nez Perce Reservation, the Duck Valley Reservation, and the Shoshone-Bannock Reservation. (11-16-95)T
55. Risk Assessment. Direct contact of a family services worker with a family to objectively determine if safety issues or immediate service needs exist, which require further Family and Children's Services response. (11-16-95)T
56. SSI (Supplemental Security Income). Income maintenance grants for eligible persons who are aged, blind or disabled. Grants are provided under Title VI of the Social Security Act and are administered by the Social Security Administration and local Social Security Offices. (11-16-95)T
57. Self-Support Services. Supportive social services provided to an individual and their family to increase their ability to obtain employment. (11-16-95)T
58. Severe Behavioral and Emotional Disorders. Serious emotional disability of an individual under the age of eighteen (18) years, which requires sustained mental health treatment interventions from two (2) or more components of the service system. (11-16-95)T
59. Sheltered Workshop Services. Work activities and extended sheltered employment services for adults age eighteen (18) and over who are developmentally disabled as defined by the Idaho Developmental Disabilities Services and Facilities Act. Sheltered workshop services are established to assist individuals in acquiring skills which promote opportunities for independent daily living and/or employment. Activities include therapeutic

and prevocational activities, skills for self-care and management of daily living and recreational and work skills training. (11-16-95)T

60. Social Service Block Grant. The social service block grant funds are federal funds provided to states to assist in the development of comprehensive social service programs to help those with special needs to achieve and maintain a greater degree of economic self support and self sufficiency, to prevent neglect, abuse, or exploitation of children and adults who are unable to protect their own interests, to prevent or reduce inappropriate institutional care, and to secure referral or admission for institutional care when other forms of care are not appropriate. (11-16-95)T

61. TAFI. Temporary Assistance to Families in Idaho. (7-1-97)T

62. Target Population. Group of persons, residing within a defined geographical area, who are identified as being at risk for an adverse social or health condition or combination of conditions and whom the program is designed to serve. (11-16-95)T

63. Title IV-A. Title under the Social Security Act which provides public assistance to families with dependent children and is commonly identified as Aid to Families with Dependent Children (AFDC) and emergency assistance. (11-16-95)T(7-1-97)T

64. Title IV-B. Title under the Social Security Act which provides Child Welfare Services. This categorical service program is aimed at improving the general welfare of children regardless of income. (11-16-95)T

65. Title IV-E. Title under the Social Security Act which provides funding for foster care maintenance (formerly provided for under Title IV-A of the Social Security Act) and adoption assistance payments for certain eligible children. (11-16-95)T

66. Title XVIII (Medicare). Title of the Social Security Act which provides funding for medical services for persons over age sixty-five (65). (11-16-95)T

67. Title XIX (Medicaid). Title under the Social Security Act which provides "Grants to States for Medical Assistance Programs." (11-16-95)T

68. Tribal Court. A court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings. (11-16-95)T

69. Unmarried Parents' Services. Unmarried parents' services are aimed at achieving or maintaining self-sufficiency or self-support for unmarried parents. These services include counseling for all unmarried parents who need such service in relation to their plans for their children and arranging for and/or paying for prenatal and confinement care for the well-being of the parent and infant. (11-16-95)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. EMERGENCY ASSISTANCE TO FAMILIES.**

A family is eligible for Emergency Assistance in Idaho if a licensed social worker within the Department of Health and Welfare, Family and Children's Services receives a report or referral indicating an emergency condition and determines that all of the eligibility requirements provided are met an emergency exists. (11-16-95)T(7-1-97)T

**101. ~~ELIGIBILITY~~ EMERGENCY ASSISTANCE REQUIREMENTS.**

01. Application. An application is ~~filed~~ completed by a parent. If both parents are absent, refuse to cooperate in supporting the child or are unwilling to apply on behalf of the child, another adult relative or the Family and Children's Services social worker may ~~file~~ complete the application on behalf of the child. ~~If the child is in the~~

legal custody of the Department, the social worker may file the application on behalf of the child. (7-1-97)(7-1-97)T

02. Eligible Child. The family contains a needy child under the age of eighteen (18);(7-1-97)(7-1-97)T

03. Residence with Relative. The child is living with one (1) or both parents, or within six (6) months prior to the month in which such assistance is requested, has been living with a relative (parent, grandparent, adoptive parent, stepparent, sibling, aunt, uncle, or cousin); (7-1-97)

04. Income. The applicant family has a monthly income below the AFDC Gross Income Limit and does not have the ability to meet the emergent need or, if the family is above the AFDC Gross Income Limit, the family is unable to meet the emergent need because of circumstances beyond their control. In the case where both parents are absent, refuse to cooperate in supporting the child or are unwilling to apply on behalf of the child, the child's income alone is considered; (7-1-97)

05. Necessity for Assistance. The emergency assistance is necessary to avoid destitution of such child or to provide living arrangements for him/her in a home The Family and Children's social worker has determined that the family has an emergency condition and the family is unable to meet that need; and (7-1-97)(7-1-97)T

06. Parent's Refusal of Employment or Training to Cooperate with TAFI Requirements, a Personal Responsibility Contract or Parent's Ineligibility for TAFI Due to Use of Lifetime TAFI Benefits. The child's destitution or need for living arrangements did not arise because the child or such relative refused without good cause to accept employment or training for employment. The emergency condition did not arise because the parents failed to cooperate with TAFI requirements, a Personal Responsibility Contract, or are ineligible for TAFI because their lifetime benefit has been met. (7-1-97)(7-1-97)T

**102. EMERGENCY CONDITIONS –IMMEDIATE DANGER.**

A child is considered to be in immediate danger involving a life-threatening situation when Family and Children's Services receives a report of one of the following circumstances A family meets the requirements for emergency conditions in the following circumstances: (11-16-95)(7-1-97)T

01. Death of a Child. Minor siblings remaining in the family home, when death of a child is alleged to be due to physical abuse or neglect by the child's parents, guardian, or caretaker. Report of Abuse or Neglect. A family is considered to have an emergency condition if there are reports of risk factors for child abuse or neglect and as a result the child is at risk of out of home placement; or (11-16-95)(7-1-97)T

02. Dangerousness or Risk of Physical Harm due to Mental Illness and/or Grave Disability. Referrals involving immediate life-threatening danger of children to self or others due to mental illness and/or grave disability. Unmet Service Need. A family is considered to have an emergency condition if there are unmet service needs that may lead to child abuse or neglect and as a result the child is at risk of out of home placement; or (11-16-95)(7-1-97)T

03. Life-Threatening Physical Abuse. Severely physically abused children with observable injuries, or symptoms that are or could be life-threatening. Child's Mental Health. A family is considered to have an emergency condition if the child is at risk for out home placement due to the child's mental health. (11-16-95)(7-1-97)T

04. Life-Threatening Medical Neglect. Physically ill children who are medically neglected in a way that is life-threatening, including abrupt and significant (of ten percent (10%) or more of the body weight of a child under three (3) years of age); (11-16-95)T

05. Life-Threatening Physical Neglect. Children who appear to be in imminent danger because the caretakers are physically absent and/or are unable or unwilling to provide adequate care. (11-16-95)T

06. Withholding Medically Indicated Treatment in Severely Disabled Infants with Life-Threatening Conditions. An infant less than two (2) years of age who has been continuously hospitalized since birth, who was born prematurely, or who has a long-term disability. (11-16-95)T

07. Preservation of Information/Risk of Family Leaving Area. Abuse or neglect cases in which critical

information is likely to be lost if not gathered immediately. (11-16-95)T

**103. SITUATIONS OF DANGER BUT LESS THAN IMMEDIATE HARM.**

Allegations of abuse, suicide, or serious physical/medical neglect, or new critical incidents are clearly defined in the referral. (11-16-95)T

01. ~~Non Life-Threatening Physical Abuse. Physical abuse of a child over the age of five (5) with observable, non life-threatening injuries.~~ (11-16-95)T

02. ~~Non Life-Threatening Physical or Medical Neglect. Physical or medical neglect that is dangerous and poses health hazards to the child, and that may result in physical injury or impairment of bodily function, including growth rate below the third percentile or chronic untreated infections.~~ (11-16-95)T

03. ~~Sexual Abuse. Children who are sexually abused by parents, guardians, relatives or other caretakers, or situations in which abuse occurred because of possible lack of protection on the part of the caretakers.~~ (11-16-95)T

04. ~~Infants Testing Positive for Drugs at Birth. Family's ability to care for the needs of the infant and risk to the infant will be assessed in situations where infants test positive for drugs at birth.~~ (11-16-95)T

**104. SITUATIONS WITH POTENTIAL FOR DANGER.**

A child is without quality parental care necessary for safety, health, and well being. (11-16-95)T

01. ~~Inadequate Supervision. Any child who is receiving inadequate care to assure his well being or is unsupervised. Factors to consider in the evaluation of the level of danger include whether the child is less than nine (9) years old; whether the child is developmentally delayed or physically or mentally disabled; how long the child has been alone and what has happened as a result; and what prior arrangements have been made for an emergency.~~ (11-16-95)T

02. ~~Home Health and Safety. A physical environment that is unsanitary or a safety hazard that may directly affect the health and welfare of a child.~~ (11-16-95)T

**105. SITUATIONS WHERE SERVICE NEEDS, IF LEFT UNMET, MAY RESULT IN HARM.**

01. ~~Recurring Non Attendance at School. Recurring non attendance at school, risk of suspension or expulsion from school when there is reasonable cause to believe that these issues are a direct result of abuse or neglect.~~ (11-16-95)T

02. ~~Children Under Age Twelve (12). Children under age twelve (12) and in need of behavior management, counseling or treatment. Staff may assist parents in referral to appropriate resources.~~ (11-16-95)T

03. ~~Third Party Abuse. Third party sexual and/or physical abuse where third party is not a family member or primary caretaker. Parents are being protective of the child(ren) and were not involved in the abuse. An exception is when the third party is a day care provider and/or their staff and there are allegations of abuse/neglect occurring in the day care.~~ (11-16-95)T

04. ~~Moderate Medical Neglect. Infrequent physical examinations, questionable diet, failure to receive immunizations, or similar neglect, that has an identified risk to the child.~~ (11-16-95)T

05. ~~Public Health and Housekeeping Concerns. If there are no health and safety factors as they relate to the children in the home, the Department will not be directly involved. Staff may assist with referrals to other community agencies.~~ (11-16-95)T

06. ~~High Risk Indicators of Abuse and Neglect that May Result in Out of Home Placement. If the child is under the age of fourteen (14) and there are indicators of high risk of abuse, neglect, and possible removal to out of home placement. Indicators of such high risk are parental stresses which include inability to provide basic needs such as food, utilities, shelter, medical and clothing, or school failure due to family stress or neglect.~~ (11-16-95)T



**1063. -- 109. (RESERVED).**

**110. EMERGENCY SERVICES.**

As determined appropriate and necessary by Family and Children's Services personnel and because services are not being available through the family, extended family, friends, or other community resources, services may be provided to families in need and may include: information and referral, case management, court-related activities, intensive in-home services, day treatment, counseling, youth/family companion services, non-residential substance abuse treatment, community-based assessment, respite care, shelter care, and other community-based services provided to meet needs attributable to the emergency or crisis situation and to avoid out-of-home placement or expedite family reunification for the child at risk. ~~(11-16-95)F(7-1-97)T~~

01. Emergency Payments. Money payments, payments in kind, or other payments such as vendor payments made on behalf of the eligible family for the purchase of goods and services not available through other community resources to meet needs attributable to the emergency or crisis situation. (11-16-95)T

02. Placement Services. Shelter care, foster family care, or residential group care for children separated from their parents, including food, clothing, and supervision unless the child has such assistance provided under Title IV-E. Needed medical care is also included unless the child is eligible for such care under Title XIX. (11-16-95)T

**111. AUTHORIZATION AND DURATION OF SERVICES AND ASSISTANCE.**

Emergency services and assistance are limited to a maximum duration of ninety (90) days or less as necessary to alleviate the emergency condition, and ~~must be authorized during a single thirty (30) day period no less than twelve (12) months after the beginning of the family's last emergency assistance authorization period~~ an application and plan must be completed within the first thirty (30) days of the Department's determination of the necessity for assistance. ~~(11-16-95)F(7-1-97)T~~

**112. PROGRAM ADMINISTRATION.**

In addition to the assistance and services described in this section, the Department shall engage in activities incidental to and necessary for the proper and efficient administration of the emergency assistance program. Family and Children's Services personnel shall complete the eligibility application/planning process including receiving reports and referrals indicating emergency conditions, completing risk assessments, stabilizing families, court-related activities, developing family plans and authorizing services, as well as completing documentation, payment and reporting processes, staff and provider training and other related administrative activities. ~~(11-16-95)F(7-1-97)T~~

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.09 - RULES GOVERNING THE FAMILY SELF SUPPORT PROGRAM**  
**FOR IDAHO RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT**  
**CHILDREN AND RECIPIENTS OF FOOD STAMPS**

**DOCKET NO. 16-0609-9703**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-106(1), 56-202(b), and 56-209, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 4, 1997 Idaho Administrative Bulletin, Volume 97-6, page 125.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5819.

DATED this 5th day of November, 1997.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**IDAPA 16**  
**TITLE 06**  
**Chapter 09**

**RULES GOVERNING THE FAMILY SELF SUPPORT PROGRAM FOR IDAHO**  
**RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT**  
**CHILDREN AND RECIPIENTS OF FOOD STAMPS**

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

**The original text was published in the Idaho**  
**Administrative Bulletin, Volume 97-6, June 4, 1997, page 125.**

**This rule has been adopted as Final by the Agency**  
**and is now pending review by the**  
**1998 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)**  
**DOCKET NO. 16-0612-9701**

**NOTICE OF AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** These temporary rules are effective September 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-5226 (2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of the proposed rules:

The sliding fee schedule determines the portion of child care costs to be paid by families receiving ICCP child care payments. The amendment to the temporary rule, modifies the sliding fee schedule so that families using ICCP child care enables them to work or attend training or education programs and will receive more of the cost of their child care from ICCP. This change will decrease the portion of child care costs which families must pay.

Financial eligibility for ICCP payment will continue to be based on 150% of the federal poverty level. This docket will incorporate the 1997 Federal poverty guidelines into the sliding fee schedule.

The Personal Responsibility and Work Opportunities Act of 1996 increased federal funding available to assist low income families with costs of child care. Analysis of the fiscal impact of the proposed changes indicates that sufficient funds are available to support these changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary rules, contact Patti Campbell, at (208) 334-5819.

DATED this 5th day of November, 1997.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
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**TEXT OF DOCKET NO. 16-0612-9701**

**307. SLIDING FEE SCHEDULES.**

Eligible families, except TAFI families participating in non-employment TAFI activities, shall pay part of their child care costs. (7-1-97)T

01. Poverty Rates. Poverty rates shall be the established rates published annually in federal regulations. The monthly rate shall be calculated by dividing the yearly rate by twelve (12). (7-1-97)

02. Sliding Fee Schedules. A sliding fee schedule shall be established annually. The amount required from the family shall increase incrementally as the family's income increases. (7-1-97)

03. Calculating Family Payment. Families shall pay directly to the provider of child care. Family income for the month the child care is provided shall be applied to the sliding fee schedule to calculate the family share of child care costs. The ICCP reimbursement shall be the allowable rate less the amount calculated using the sliding fee schedule. The sliding fee schedule is listed in Table 307. (7-1-97)

04. Maximum Income and Sliding Fee Schedules:

<b>TABLE 307—FAMILY CO-PAYMENT REQUIREMENTS</b>									
<b>ICCP SLIDING FEE SCHEDULES EFFECTIVE 5-01-96</b>									
<b>FAMILY SIZE</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>MONTHLY INCOME</b>	<b>PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY</b>								
\$0—\$99	2%	2%	2%	2%	2%	2%	2%	2%	2%
\$100—\$199	3%	3%	3%	3%	3%	3%	3%	3%	3%
\$200—\$299	4%	4%	4%	4%	4%	4%	4%	4%	4%
\$300—\$399	5%	5%	5%	5%	5%	5%	5%	5%	5%
\$400—\$499	10%	5%	5%	5%	5%	5%	5%	5%	5%
\$500—\$599	15%	5%	5%	5%	5%	5%	5%	5%	5%
\$600—\$699	20%	10%	5%	5%	5%	5%	5%	5%	5%
\$700—\$799	25%	15%	5%	5%	5%	5%	5%	5%	5%
\$800—\$899	+30%	20%	5%	5%	5%	5%	5%	5%	5%
\$900—\$999	45%	25%	10%	5%	5%	5%	5%	5%	5%
\$1,000—\$1,099	60%	+30%	15%	5%	5%	5%	5%	5%	5%
\$1,100—\$1,199	75%	40%	20%	10%	5%	5%	5%	5%	5%
\$1,200—\$1,299	90%	50%	25%	15%	10%	5%	5%	5%	5%
\$1,300—\$1,399	100%	60%	+30%	20%	10%	5%	5%	5%	5%
\$1,400—\$1,499	100%	70%	40%	25%	15%	10%	5%	5%	5%
\$1,500—\$1,599	100%	80%	50%	+30%	20%	10%	5%	5%	5%
\$1,600—\$1,699	100%	90%	60%	35%	25%	15%	10%	5%	5%
\$1,700—\$1,799	100%	100%	70%	40%	+30%	20%	10%	5%	5%
\$1,800—\$1,899	100%	100%	80%	50%	35%	25%	15%	10%	5%
\$1,900—\$1,999	100%	100%	90%	60%	40%	+30%	20%	10%	5%
\$2,000—\$2,099	100%	100%	100%	70%	45%	35%	25%	15%	10%
\$2,100—\$2,199	100%	100%	100%	80%	50%	40%	+30%	20%	10%
\$2,200—\$2,299	100%	100%	100%	90%	55%	45%	35%	25%	15%
\$2,300—\$2,399	100%	100%	100%	100%	60%	50%	40%	+30%	15%
\$2,400—\$2,499	100%	100%	100%	100%	70%	55%	45%	35%	20%

<b>TABLE 307—FAMILY CO-PAYMENT REQUIREMENTS</b>									
<b>ICCP SLIDING FEE SCHEDULES EFFECTIVE 5-01-96</b>									
<b>FAMILY SIZE</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>MONTHLY INCOME</b>	<b>PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY</b>								
\$2,500—\$2,599	100%	100%	100%	100%	80%	60%	50%	40%	25%
\$2,600—\$2,699	100%	100%	100%	100%	90%	65%	55%	45%	+30%
\$2,700—\$2,799	100%	100%	100%	100%	100%	70%	60%	50%	35%
\$2,800—\$2,899	100%	100%	100%	100%	100%	80%	65%	55%	40%
\$2,900—\$2,999	100%	100%	100%	100%	100%	90%	70%	60%	45%
\$3,000—\$3,099	100%	100%	100%	100%	100%	100%	75%	65%	50%
\$3,100—\$3,199	100%	100%	100%	100%	100%	100%	80%	70%	55%
\$3,200—\$3,299	100%	100%	100%	100%	100%	100%	90%	75%	60%
\$3,300—\$3,399	100%	100%	100%	100%	100%	100%	100%	80%	65%
\$3,400—\$3,499	100%	100%	100%	100%	100%	100%	100%	85%	70%
\$3,500—\$3,599	100%	100%	100%	100%	100%	100%	100%	90%	75%
\$3,600—\$3,699	100%	100%	100%	100%	100%	100%	100%	100%	80%
\$3,700—\$3,799	100%	100%	100%	100%	100%	100%	100%	100%	85%
\$3,800—\$3,899	100%	100%	100%	100%	100%	100%	100%	100%	90%
\$3,900—\$3,999	100%	100%	100%	100%	100%	100%	100%	100%	95%
\$4,000—\$4,099	100%	100%	100%	100%	100%	100%	100%	100%	100%

<b>#Maximum income for ICCP benefits:</b>	<b>+Monthly Poverty Level:</b>
\$1,295 for household of 2	+ \$ 863 for household of 2
\$1,623 for household of 3	+ \$1082 for household of 3
\$1,950 for household of 4	+ \$1300 for household of 4
\$2,277 for household of 5	+ \$1518 for household of 5
\$2,606 for household of 6	+ \$1737 for household of 6
\$2,993 for household of 7	+ \$1955 for household of 7
\$3,260 for household of 8	+ \$2173 for household of 8
\$3,587 for household of 9	+ \$2391 for household of 9
\$3,914 for household of 10	+ \$2609 for household of 10

**\*MAXIMUM INCOME (OR ELIGIBILITY FOR REIMBURSEMENT) BASED ON ONE HUNDRED FIFTY**

PERCENT (150%) OF POVERTY (1996 POVERTY TABLES)-

<b>TABLE 307.04 FAMILY CO-PAYMENT REQUIREMENTS</b>									
<b>ICCP SLIDING FEE SCHEDULE EFFECTIVE 9-1-97</b>									
<b>FAMILY SIZE</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>MONTHLY INCOME</b>	<b>PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY</b>								
\$0 - \$499	1%	1%	1%	1%	1%	1%	1%	1%	1%
\$500 - \$599	5%	1%	1%	1%	1%	1%	1%	1%	1%
\$600 - \$699	5%	5%	1%	1%	1%	1%	1%	1%	1%
\$700 - \$799	5%	5%	5%	1%	1%	1%	1%	1%	1%
\$800 - \$899	15%	5%	5%	5%	1%	1%	1%	1%	1%
\$900 - \$999	15%	5%	5%	5%	5%	1%	1%	1%	1%
\$1,000 - \$1,099	+15%	5%	5%	5%	5%	1%	1%	1%	1%
\$1,100 - \$1,199	30%	15%	5%	5%	5%	5%	1%	1%	1%
\$1,200 - \$1,299	30%	15%	5%	5%	5%	5%	5%	1%	1%
\$1,300 - \$1,399	60%	+15%	15%	5%	5%	5%	5%	5%	1%
\$1,400 - \$1,499	100%	30%	15%	5%	5%	5%	5%	5%	1%
\$1,500 - \$1,599	100%	30%	+15%	15%	5%	5%	5%	5%	5%
\$1,600 - \$1,699	100%	60%	30%	15%	5%	5%	5%	5%	5%
\$1,700 - \$1,799	100%	100%	30%	+15%	15%	5%	5%	5%	5%
\$1,800 - \$1,899	100%	100%	30%	15%	15%	5%	5%	5%	5%
\$1,900 - \$1,999	100%	100%	30%	30%	+15%	5%	5%	5%	5%
\$2,000 - \$2,099	100%	100%	60%	30%	15%	15%	5%	5%	5%
\$2,100 - \$2,199	100%	100%	100%	30%	15%	15%	5%	5%	5%
\$2,200 - \$2,299	100%	100%	100%	30%	15%	+15%	15%	5%	5%
\$2,300 - \$2,399	100%	100%	100%	60%	30%	15%	15%	5%	5%
\$2,400 - \$2,499	100%	100%	100%	100%	30%	15%	+15%	15%	5%
\$2,500 - \$2,599	100%	100%	100%	100%	30%	15%	15%	15%	5%
\$2,600 - \$2,699	100%	100%	100%	100%	60%	30%	15%	+15%	15%
\$2,700 - \$2,799	100%	100%	100%	100%	100%	30%	15%	15%	15%
\$2,800 - \$2,899	100%	100%	100%	100%	100%	30%	15%	15%	+15%
\$2,900 - \$2,999	100%	100%	100%	100%	100%	30%	30%	15%	15%
\$3,000 - \$3,099	100%	100%	100%	100%	100%	60%	30%	15%	15%

<b>TABLE 307.04 FAMILY CO-PAYMENT REQUIREMENTS</b>									
<b>ICCP SLIDING FEE SCHEDULE EFFECTIVE 9-1-97</b>									
<b>FAMILY SIZE</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>MONTHLY INCOME</b>	<b>PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY</b>								
\$3,100 - \$3,199	100%	100%	100%	100%	100%	100%	30%	30%	15%
\$3,200 - \$3,299	100%	100%	100%	100%	100%	100%	30%	30%	15%
\$3,300 - \$3,399	100%	100%	100%	100%	100%	100%	60%	30%	15%
\$3,400 - \$3,499	100%	100%	100%	100%	100%	100%	100%	30%	30%
\$3,500 - \$3,599	100%	100%	100%	100%	100%	100%	100%	30%	30%
\$3,600 - \$3,699	100%	100%	100%	100%	100%	100%	100%	30%	30%
\$3,700 - \$3,799	100%	100%	100%	100%	100%	100%	100%	60%	30%
\$3,800 - \$3,899	100%	100%	100%	100%	100%	100%	100%	100%	30%
\$3,900 - \$3,999	100%	100%	100%	100%	100%	100%	100%	100%	30%
\$4,000 - \$4,099	100%	100%	100%	100%	100%	100%	100%	100%	60%
\$4,100 - \$4,199	100%	100%	100%	100%	100%	100%	100%	100%	100%

<u>*Maximum income for ICCP benefits:</u>	<u>+ Monthly Poverty Level:</u>
• \$1,326 for household of 2	+ \$884 for household of 2
• \$1,667 for household of 3	+ \$1,111 for household of 3
• \$2,007 for household of 4	+ \$1,338 for household of 4
• \$2,346 for household of 5	+ \$1,564 for household of 5
• \$2,687 for household of 6	+ \$1,791 for household of 6
• \$3,027 for household of 7	+ \$2,018 for household of 7
• \$3,366 for household of 8	+ \$2,244 for household of 8
• \$3,706 for household of 9	+ \$2,471 for household of 9
• \$4,047 for household of 10	+ \$2,698 for household of 10

MAXIMUM INCOME (OR ELIGIBILITY FOR PAYMENT) BASED ON ONE HUNDRED FIFTY PERCENT (150%) OF POVERTY (1997 POVERTY TABLES). (7-1-97)(9-1-97)T

**IDAPA 27 - IDAHO BOARD OF PHARMACY**  
**27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY**  
**DOCKET NO. 27-0101-9701**  
**NOTICE OF PUBLIC HEARING**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Section 54-1717, Idaho Code.

**PUBLIC HEARING SCHEDULED:** Public hearing regarding this rule-making will be held as follows:

**November 7, 1997**  
**9:00 a.m.**  
**Gold Room, Statehouse**  
**Boise, Idaho**

The hearing site 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 summary of this action is found in October 1, 1997 Idaho Administrative Bulletin, Volume 97-10, pages 222 through 236.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the proposed rule or this notice, contact Richard Markuson at (208) 334-2356.

DATED this 16th day of October, 1997.

Richard K. "Mick" Markuson, Director  
Idaho Board of Pharmacy  
280 N. 8th St., Ste. 204  
Boise, ID 83702



**IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION**  
**31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES**  
**REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION**

**DOCKET NO. 31-1101-9701**

**NOTICE OF PENDING RULES**

**EFFECTIVE DATE:** These rules have been adopted by the Idaho Public Utilities Commission and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rules become final and effective on April 1, 1998, unless the rules are approved, rejected, amended or modified by current resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has adopted pending rules. This action is authorized pursuant to Section 61-515, Idaho Code.

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

The Commission's Safety and Accident Reporting Rules currently adopt by reference several national safety code and the federal gas pipeline safety regulations. These national safety codes and regulations have recently been updated. The Commission proposed to adopt the updated version of the national safety codes and regulations. The Commission did not receive any written comments concerning the rules. Accordingly, the pending rules are being adopted as proposed. The original text of the proposed rules was published in the August 6, 1997 Idaho Administrative Bulletin, Volume No. 97-8, pages 183 through 186.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General at (208) 334-0312.

DATED this 18th day of September 1997.

Myrna J. Walters, Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720, Boise, ID 83720-0074  
Telephone: (208) 334-0338  
FAX: (208) 334-3762

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**IDAPA 31**  
**TITLE 11**  
**Chapter 01**

**SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED**  
**BY THE IDAHO PUBLIC UTILITIES COMMISSION**

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

**The original text was published in the Idaho Administrative Bulletin, Volume 97-8,**  
**August 6, 1997, pages 183 through 186.**

**This rule has been adopted as Final by the Agency and is now pending review**  
**by the 1998 Idaho State Legislature for final adoption.**

**IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION**  
**31.12.01 - SYSTEMS OF ACCOUNTS FOR PUBLIC UTILITIES REGULATED**  
**BY THE IDAHO PUBLIC UTILITIES COMMISSION**

**DOCKET NO. 31-1201-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Idaho Public Utilities Commission and is now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has adopted a pending rule. This action is authorized pursuant to Section 61-524, Idaho Code.

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

The Commission's Systems of Accounts for Public Utilities Rules currently adopt by reference the NARUC Uniform System of Accounts regulations. The Rules prescribe the manner in which the utility accounting records are to be kept. The Systems of Accounts regulations for Class A and B Water Utilities have recently been updated. The Commission is proposing to adopt the 1996 updated version of that Uniform System of Accounts published by the National Association of Regulatory Utility Commissioners (NARUC).

Existing Rule 104 (31.12.01.104) adopts by reference the Uniform System of Accounts (USOA) for Class A and B Water Utilities based upon the 1984 version. The Commission proposed to adopt the 1996 version of the USOA published by the National Association of Regulatory Utility Commissioners, 1201 Constitution Avenue N.W., PO Box 684, Washington, D.C. 20044-0684. The Commission received timely comments by Legislative Services and Commission Staff. Legislative Services indicated that the Senate and House Subcommittees for Review of Administrative Rules examined the proposed changes to the Commission's Systems of Accounts Rules and reported that "no objections will be filed." The Commission Staff recommended adoption of the 1996 version of the Uniform System of Accounts. Accordingly, the pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 6, 1997 Idaho Administrative Bulletin, Volume 97-8, pages 187 and 188.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Scott D. Woodbury, Deputy Attorney General at (208) 334-0320.

DATED this 19th day of September 1997.

Myrna J. Walters  
Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720  
Boise, ID 83720-0074  
Telephone: (208) 334-0338  
FAX: (208) 334-3762

**IDAPA 31**  
**TITLE 12**  
**Chapter 01**

**SYSTEMS OF ACCOUNTS FOR PUBLIC UTILITIES REGULATED**  
**BY THE IDAHO PUBLIC UTILITIES COMMISSION**

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

**The original text was published in the Idaho**  
**Administrative Bulletin, Volume 97-8, August 6, 1997,**  
**pages 187 and 188.**

**This rule has been adopted as Final by the Agency**  
**and is now pending review by the**  
**1998 Idaho State Legislature for final adoption.**

**IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION**

**31.61.01 - MOTOR CARRIER RULES**

**DOCKET NO. 31-6101-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Idaho Public Utilities Commission and is now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on April 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has adopted pending rules. This action is authorized pursuant to Section 61-807, Idaho Code.

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

The Commission's rulemaking eliminates existing rules pertaining to rates, routes and services provided by all motor carriers in light of the federal preemption in this area. In addition, the rulemaking removes all rules and portions of rules pertaining to safety fitness ratings suspended by the Commission in Order No. 26896 on April 25, 1997, in light of a federal court ruling. Finally, the rulemaking implements several "housekeeping" changes to eliminate redundancy and to streamline the Motor Carrier Rules. The Commission received comments from the State of Idaho, Department of Law Enforcement urging the Commission to either continue in suspension the Commission's Motor Carrier Rules pertaining to safety fitness rating methodology or to adopt the new federal rule upon which the Commission's rule is based as soon as the federal rule becomes final. In General Order No. 196, the Commission declined to continue in suspension the rule pertaining to the safety fitness rating methodology but agreed that it would review the federal rule as soon as it becomes effective to determine whether to adopt that in the state of Idaho on an expedited basis. Accordingly, the pending rules are being adopted as proposed. The original text of the proposed rules was published in the August 6, 1997 Idaho Administrative Bulletin, Volume 97-8, Pages 189 through 220.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Brad M. Purdy, Deputy Attorney General at (208) 334-0357.

DATED this 24th day of September 1997.

Myrna J. Walters  
Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720  
Boise, ID 83720-0074  
Telephone: (208) 334-0338  
FAX: (208) 334-3762

**IDAPA 31**  
**TITLE 61**  
**Chapter 01**

**MOTOR CARRIER RULES**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-8, August 6, 1997,  
pages 189 through 220.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.02.70 - RULES GOVERNING RESTRICTED DRIVING PERMITS**  
**DOCKET NO. 39-0270-9701**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

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

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 18-8002A, 49-325, and 49-326, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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

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

The proposed amendment will authorize the issuance of restricted driving permits for Administrative License Suspensions, in compliance with HB-284, effective January 1, 1998.

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

This rule must be amended to comply with the effective date of HB-284.

**NEGOTIATED RULE-MAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the rule was amended to comply with existing legislation (HB-284).

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Jane Caviness, 208-334-8700.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before November 26, 1997.

DATED this 22nd day of September, 1997.

Linda L. Emry, Administrative Secretary  
Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
3311 West State Street  
P O Box 7129  
Boise ID 83707-1129  
Phone - 208-334-8810  
FAX - 208-334-8195

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**TEXT OF DOCKET NO. 39-0270-9701**

**000. LEGAL AUTHORITY.**

Under authority of Sections 18-8002A, 49-325, and 49-326, Idaho Code, the Idaho Transportation Board adopts the

following Rule for the issuance of Restricted Driving Permits for drivers licensed in Idaho who face certain suspension or revocation of driving privileges in the state of Idaho. ~~(10-1-94)~~(1-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. RESTRICTED DRIVING PERMITS MAY BE ISSUED.**

The Department may only issue Restricted Driving Permits to individuals whose driving privileges have been suspended or revoked for: (10-1-94)

01. Reckless Driving. Conviction of reckless driving. Ref. Sections 49-1401 and 49-326(1)(f), Idaho Code. (10-1-94)
02. Fleeing or Eluding an Officer. Conviction of fleeing or attempting to elude a peace officer. Ref. Sections 49-1404 and 49-326(1) (f), Idaho Code. (9-14-92)
03. Points. Accumulation of excessive "point" violations. Sections 49-326(1)(i) and (j), Idaho Code. (8-31-89)
04. Leaving Scene of Accident. Conviction of leaving the scene of an accident involving damage to a vehicle. Ref. Sections 49-1301, and 49-326(1)(l), Idaho Code. (9-14-92)
05. Using Motor Vehicle. Conviction of using a motor vehicle in the commission of a felony. Ref. Section 49-325(1)(b), Idaho Code. (8-31-89)
06. Offense in Another State. Conviction of an offense in another state that would be grounds for suspension/revocation in this state. Ref. Section 49-326(1)(e), Idaho Code. (8-31-89)
07. Restricted License. Conviction of violation of a restricted license. Ref. Sections 49-317 and 49-326(1)(k), Idaho Code. (9-14-92)
08. Administrative License Suspension. An Administrative suspension of driving privileges for a first-time failure of an evidentiary test for the last sixty (60) days of that suspension, for Class D privileges only if driver was operating a commercial vehicle. Ref. Section 18-8002A, Idaho Code. ~~(10-1-94)~~(1-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. GENERAL APPLICATION PROCEDURE FOR A RESTRICTED DRIVING PERMIT.**

01. Applicant Submissions. Applicant must submit the following before their suspension or revocation is stayed: (10-1-94)
  - a. Completed Form No. ITD-3227, Application for Restricted Driving Permit; (8-31-89)
  - b. Completed Form No. ITD-3208, Work Verification; (8-31-89)
  - c. Proof of motor vehicle liability insurance coverage in the amount required by law to cover any and all vehicles to be used by the applicant. Additionally, an applicant operating a vehicles other than his own shall provide a letter of permission from the owner to operate the vehicle and to verify the insurance coverage on that vehicle; ~~(10-1-94)~~(1-1-98)T
  - d. Financial responsibility in the form of an SR-22 is required for Idaho or out-of-state convictions for driving under the influence of alcohol or other intoxicating substances, reckless driving, eluding a peace officer,

driving without privileges, leaving the scene of an accident, or using a motor vehicle in the commission of a felony. Or other acceptable forms of insurance pursuant to Section 49-1209, Idaho Code; (10-1-94)

- e. An application fee of thirty-five dollars (\$35); (10-1-94)
- f. A reinstatement fee for regular driving privileges pursuant to Section 49-328, Idaho Code. (10-1-94)

02. Written Agreement. If the Department determines that ~~an~~ applicants ~~are~~ is eligible for a Restricted Driving Permits, the applicants must then sign written agreements, prepared by the Department, affirming that: ~~(10-1-94)~~(1-1-98)T

- a. Cause exists to suspend or revoke the driver's license or privileges of the applicant; (8-31-89)
- b. The driver's license of the applicant is suspended or revoked but that such suspension or revocation shall be stayed pending completion of the Restricted Driving Permit and suspension; (10-1-94)
- c. The applicant shall obey all motor vehicle laws; (10-1-94)
- d. The applicant may be required to attend and complete defensive drivers courses or obtain an alcohol evaluation and follow the recommendations of the evaluator if the suspension is based upon conviction of an alcohol related offense. (9-14-92)
- e. The applicant shall provide and maintain adequate motor vehicle liability insurance. (10-1-94)
- f. The applicant shall notify the Department within twenty-four (24) hours following arrest, citation, accident or warnings by any law enforcement officer with regard to motor vehicle violations or alleged violations, and any change of address, telephone number, place of employment; (8-31-89)
- g. The applicants understands that if they plead guilty to, are found guilty, or forfeit bond as to any moving traffic violation while operating with a Restricted Driving Permit, their Restricted Driving Permit may be cancelled; ~~(10-1-94)~~(1-1-98)T
- h. The applicant shall not operate any motor vehicle after consuming any ~~intoxicating liquor and/or drugs alcohol, drugs, or other intoxicating substances;~~ ~~(8-31-89)~~(1-1-98)T
- i. The applicant shall submit to any evidentiary testing to determine alcohol concentration at any time at the request of any peace officer; (9-14-92)
- j. The applicant shall operate a motor vehicle only for those reasons specified on the Restricted Driving Permit (See Section 600); (10-1-94)
- k. The applicant shall abide by all rules and regulations concerning the Restricted Driving Permit; (8-31-89)
- l. The applicant's Restricted Driving Permit may be cancelled by the Department without a hearing for violation of the terms of the agreement or other conditions specified on the Restricted Driving Permit; and (10-1-94)
- m. The applicant understands that if, while driving on a Restricted Driving Permit, he/she receives an additional Department or court suspension that results in cancellation of the restricted permit, the applicant will not be eligible to receive another Restricted Driving Permit for said suspension. (10-1-94)

03. Restricted Driving Permit Approval. Approval will be given and a Restricted Driving Permit shall be issued if the following conditions are met: (7-1-94)

- a. Submission and approval of all requirements listed in Subsection 500.01; and (10-1-94)



- b. No other suspensions or revocations are in effect which preclude issuance of a Restricted Driving Permit. (10-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**600. DRIVING RESTRICTIONS SPECIFIED.**

The Department may impose the following restrictions upon an applicant's driving privileges and such restrictions shall be specified on the Restricted Driving Permit: (10-1-94)

01. Operation of Vehicle. Time of operation of a motor vehicle, i.e. restricted to certain days, or hours of a day. (8-31-89)
02. Geographic Area. Geographic limitations within limits of states, counties, cities. (8-31-89)
03. Purpose of Permit. Purposes of travel such as to and from employment, to and from counseling sessions, to and from medical appointments, to and from grocery store, church, etc. (10-1-94)
04. Vehicles Approved For Operation. Operation of only those vehicles approved under Section 500 of this rule. (10-1-94)
05. Purpose of Permit Administrative License Suspension. To travel to and from work and for work purposes, to attend an alternative high school, work on a GED, for post-secondary education, or to meet the medical needs of the person or their family. (1-1-98)T

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.02.72 - RULES GOVERNING ADMINISTRATIVE LICENSE SUSPENSIONS**  
**DOCKET NO. 39-0272-9701**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

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

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 18-8002A, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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

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

The proposed amendment will authorize the Division of Motor Vehicles to conduct telephone hearings for Administrative License Suspensions (ALS), allow ALS reconsiderations after final orders, and increase notification and document deadlines from three days to five days. This rule change will also identify when a peace officer cannot issue a temporary permit.

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

This rule must be amended to comply with the effective date of HB-284.

**NEGOTIATED RULE-MAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the rule was amended to comply with existing legislation (HB-284).

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Jane Caviness, 208-334-8700.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before November 26, 1997.

DATED this 22nd day of September, 1997.

Linda L. Emry, Administrative Secretary  
Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
3311 West State Street  
P O Box 7129  
Boise ID 83707-1129  
Phone - 208-334-8810  
FAX - 208-334-8195

**TEXT OF DOCKET NO. 39-0272-9701**

**010. DEFINITIONS.**

01. Petitioner. A person who has been served with a Notice of Suspension pursuant to Section 18-8002A, Idaho Code. (10-1-94)
02. Temporary Permit. A permit to operate a motor vehicle for a period of time not to exceed thirty (30) days from the date of issuance. (10-1-94)
03. Received By The Department. A document that has been: (10-1-94)
- a. Personally delivered to the department's Driver Services Section at 3311 W. State Street, Boise, Idaho; or (10-1-94)
- b. Delivered by mail and addressed to P.O. Box 7129, Boise, ID 83707-1129; or (10-1-94)
- c. Transmitted by facsimile machine to telephone number (208) 334-8739. (10-1-94)
04. Business Days. All days of the week except Saturday, Sunday, and legal holidays as defined by Section 73-108, Idaho Code. (10-1-94)
05. Certified Copy. A reproduction of an original record that has been certified by a custodian of such record to be a true and accurate copy. (10-1-94)
06. Duplicate Original. A counterpart produced by the same impression as the original, or from the same matrix. (1-1-98)T
067. Evidentiary Test. An analysis of blood, breath, or urine to determine the presence of alcohol, drugs, or other intoxicating substances. (10-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. HEARING REQUESTS.**

01. Written Requests. Hearing requests must be made in writing. Hearing requests must contain the following information: (10-1-94)
- a. The petitioner's full name, complete mailing address, and telephone number where hearing will be conducted; ~~(10-1-94)~~(1-1-98)T
- b. The driver's license number; (10-1-94)
- c. The petitioner's date of birth; (10-1-94)
- d. The date of arrest; (10-1-94)
- e. A brief statement of the issues the petitioner proposes to raise at the hearing; and (10-1-94)
- f. Any dates or times that the petitioner or attorney cannot be available for the hearing. (10-1-94)
02. Timely Requests. Hearing requests must be received by the department no later than 5:00 p.m. of the seventh day following the service of the Notice of Suspension. Hearing requests received after that time shall be

considered untimely. The department shall deny an untimely hearing request unless the petitioner can demonstrate that a request should be granted. (10-1-94)

03. Request Withdrawal. Petitioners may withdraw their hearing requests at any time. (10-1-94)

**101. HEARING NOTICES.**

01. Notification. Upon timely receipt of hearing requests, the department shall notify petitioners of the time, ~~and date, and location~~ of the hearing as soon as practicable, but no later than seven (7) days prior to the hearing. Hearing notices shall be mailed to the address provided in the hearing requests, or if no address was provided, notices shall be mailed to the most current address contained in the petitioner's driver's license records. ~~(10-1-94)~~(1-1-98)T

02. ~~Electronically Conducted Hearings~~ Conducted by Telephone. ~~The hearing notice shall state whether the hearing, or any part thereof, shall be conducted by telephone, television, or other electronic means, if such means are contemplated. Hearings shall be conducted by telephone unless the hearing officer shall determine that the petitioner or other participant would be denied the opportunity to participate in the entire hearing if held by telephone. Face to face hearings shall be held in Ada County (or other locations within the state as may be determined by the department).~~ (10-1-94)(1-1-98)T

03. Hearing Date. Hearings shall be conducted within twenty (20) days of receipt of the hearing request. However, the Hearing Officer may extend the hearing date for an additional ten (10) days upon a showing of good cause. Such extension shall not stay the suspension nor extend the expiration date of the thirty (30) day temporary permit. (10-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. DOCUMENT SUBMISSION.**

01. Forwarding Documents to the Department. Upon service of a Notice of Suspension, a law enforcement agency shall, in accordance with Section 18-8002A, Idaho Code, forward the following documents to the department within ~~three (3)~~ five (5) business days: (10-1-94)(1-1-98)T

a. Notice of Suspension and temporary permit. A temporary permit shall not be issued by a peace officer when the drivers license is not surrendered, when the drivers license surrendered is not valid, when the driver holds a drivers license from another jurisdiction, or when the driver is operating a commercial vehicle at the time of the stop. No permit will be issued to operate a commercial vehicle. (10-1-94)(1-1-98)T

b. The sworn statement of the officer incorporating any arrest or incident reports relevant to the arrest and evidentiary testing. (10-1-94)

c. A certified copy or duplicate original of the test results or log of test results if the officer has directed an evidentiary test of the petitioner's breath. (10-1-94)(1-1-98)T

d. The operational checklist for the administration of breath tests, if used. (10-1-94)

e. The petitioner's driver's license, if the petitioner is an Idaho licensed driver. (10-1-94)

02. Compliance. The documents shall be considered forwarded in a timely manner if they are postmarked within ~~three (3)~~ five (5) business days of the date of service of the Notice of Suspension or are accompanied by a certificate, certifying the documents were deposited with: (10-1-94)(1-1-98)T

a. The United States mail or overnight delivery service, or; (10-1-94)

b. Hand delivered, within ~~three (3)~~ five (5) business days of the date of service of the suspension

notice.

~~(10-1-94)~~(1-1-98)T

03. Blood and Urine Tests. If an evidentiary test of blood or urine was administered rather than a breath test, the Notice of Suspension shall not be served until the results of the test are obtained. In such cases, the peace officer may forward the sworn statement and accompanying reports to the Department and the department shall have the responsibility of serving the Notice of Suspension, if necessary. (10-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**600. FINAL ORDER REQUEST FOR RECONSIDERATION.**

The Hearing Officer shall make Findings of Fact, Conclusions of Law and Order either sustaining or vacating the license suspension in question. The Findings of Fact, Conclusions of Law and Order shall be the final order of the department. A request for reconsideration must be made within fourteen (14) days of the issuance of the Findings of Fact, Conclusions of Law and Order. The request for reconsideration shall contain a request to submit new evidence if the party wishes the hearing officer to consider any new evidence. ~~(10-1-94)~~(1-1-98)T

01. Issuing Before Suspension Expiration Date. The Hearing Officer shall issue the Findings of Fact, Conclusions of Law and Order prior to the expiration of the thirty (30) day temporary permit, but failure to do so shall not be grounds for staying or vacating the suspension. (10-1-94)

02. Mailing Final Order. The Findings of Fact, Conclusions of Law and Order is issued when a copy is deposited in the United States Mail addressed to the petitioner or the petitioner's attorney. (10-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**700. FAILURE TO APPEAR.**

01. Proposed Order of Default. Should the petitioner fail to appear at the scheduled hearing, either in person or through an attorney, the Hearing Officer shall promptly issue a notice of proposed order of default. This notice is deemed served when mailed to the petitioner at the address shown in the request for hearing, or if no address was provided, the notice shall be mailed to the most current address contained in the petitioner's driver's license records. (10-1-94)

02. Filing Petition. The petitioner may, within seven (7) days of service of the notice of proposed order of default, file a petition requesting that the order of default not be entered and stating the grounds for such a request. If the Hearing Officer grants the petitioner's request, the hearing shall be promptly rescheduled. Granting the petitioner's request shall not stay or vacate the suspension. (10-1-94)

03. Denied Petitions. If the Hearing Officer denies the petitioner's request that the default order not be entered, the Hearing Officer shall make a determination to sustain or vacate the suspension based upon the documentary record submitted by the department. (10-1-94)

04. Attending ~~the~~ a Hearing. A petitioner or witness shall be deemed to have appeared if present within fifteen (15) minutes after the time the Hearing Officer is ready to begin the hearing. In the case of a telephone hearing, the petitioner or witness shall be deemed to have appeared if contacted by telephone on the second attempt to do so within a fifteen (15) minute period from the commencement of the hearing. ~~(10-1-94)~~(1-1-98)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**800. HEARING LOCATIONS.**

Hearings shall be held in either Coeur d'Alene, Lewiston, Boise, Twin Falls, Pocatello, or Idaho Falls, and shall be scheduled at the location nearest (as measured in highway miles) to the county of arrest. Hearings may be scheduled at other locations deemed appropriate by the department if the location does not require the petitioner to travel farther than if the hearing were held at the applicable location specified in the list above. (10-1-94)

**801. — 849. (RESERVED).**

**850. FORMS.**

The Department shall develop appropriate forms to be used throughout the state including, but not limited to, forms for Notice of Suspension, temporary driving permit, and officer's sworn statement, ~~and administrative hearing requests~~. Each law enforcement agency shall use the forms supplied by the Department in carrying out the requirements of Section 18-8002A, Idaho Code, and this Rule. (10-1-94)(1-1-98)T

**8501. -- 899. (RESERVED).**

**900. COMMERCIAL DRIVERS.**

If a person is stopped while driving or in actual physical control of a commercial motor vehicle (as defined by Section 49-123(2)(c)) and is given an evidentiary test indicating an alcohol concentration of ~~900~~ four hundredths (.04) through ~~900.09~~ seven hundredths (.07) in violation of Section 18-8004b, Idaho Code, the notice of suspension served shall state, in addition to the information required by Section 18-8002A, Idaho Code, that: (10-1-94)(1-1-98)T

01. Class A, B, and C Licenses. Only Class A, B, and C driving privileges shall be suspended, unless the driver is under twenty-one (21) years then all driving privileges shall be suspended, and (10-1-94)

02. Restricted Privileges. A restricted driving permit shall not be issued by the department for the operation of commercial vehicles during the term of the suspension. (10-1-94)

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.03.08 - RULES GOVERNING PREQUALIFICATION OF VARIABLE**  
**LOAD SUSPENSION AXLES AND OTHER AUXILIARY AXLES**

**DOCKET NO. 39-0308-9701**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective October 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 49-1001, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 19, 1997.

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

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

The proposed amendment will allow Port of Entry inspectors to weigh prequalified variable load suspension axles if they have reason to believe that the axle is overweight or is not carrying sufficient weight for the group of axles. The amendment was recommended by the U.S. Attorney and the Federal Office of Motor Carrier.

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

This rule must be amended to meet Federal certification requirements. Non-compliance could result in a 10% withholding of Idaho's federal aid highway funds.

**NEGOTIATED RULE-MAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the rule was amended to comply with established federal certification requirements.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Steven Parry, 208-334-8814.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before November 26, 1997.

DATED this 22nd day of September, 1997.

Linda L. Emry, Administrative Secretary  
Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
3311 West State Street  
P O Box 7129  
Boise ID 83707-1129  
Phone - 208-334-8810  
FAX - 208-334-8195

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**TEXT OF DOCKET NO. 39-0308-9701**

**101. REVOCATION OF PREQUALIFICATION OF VARIABLE LOAD SUSPENSION (VLS) AXLES AND OTHER NONLIFTABLE AUXILIARY AXLES.**

01. Reasonable Cause. If Department personnel have reasonable cause to believe that a prequalified variableload suspension axle or other auxiliary axle is carrying a weight different than is allowed in the prequalification, the weight enforcement official may weigh the variable load suspension axles or other auxiliary axle separate from any other axle in the axle group and separately weigh the other axles in the axle group. (10-1-97)T

02. Appropriate Enforcement Action. If the gross weight of the variable load suspension axle or other auxiliary axle or other axles in the axle group exceeds allowable weights under Section 49-1001, Idaho Code, the port of entry inspector may take appropriate enforcement action. If enforcement action is taken utilizing a platform or full length scale certified to standards established by NIST Handbook 44, the prequalification may be revoked. (10-1-97)T

**1042.-- 999. (RESERVED).**



**IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION**

**47.01.02 - FIELD SERVICES**

**DOCKET NO. 47-0102-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-2301 through 33-2306, 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 changes.

Removal of Instructions for Completing the Individual Financial Needs Assessment form because it is not policy. Inclusion of policy regarding Authorization for Services because federal regulations no longer include this information and the Division wishes to assure that our customers are aware of our policy regarding purchase of services. The pending rules are being adopted as proposed. The original text of the proposed rules was published in the September 3, 1997 Idaho Administrative Bulletin, Volume 97-9, pages 235 through 244.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Kenneth M. Jones at 1-800-856-2720.

DATED this 23rd day of September, 1997.

F. Pat Young, Interim Administrator  
Idaho Division of Vocational Rehabilitation  
650 West State Street, Room 150  
P.O. Box 83720, Boise, Idaho 83720-0096  
(208) 334-3390  
(208) 334-5305 (fax)

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**IDAPA 47  
TITLE 01  
Chapter 02**

**FIELD SERVICES**

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

**The original text was published in the Idaho Administrative Bulletin, Volume 97-9,  
September 3, 1997, pages 235 through 244.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the 1998 Idaho State Legislature for final adoption.**

**IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION**

**47.01.03 - MANAGEMENT SERVICES**

**DOCKET NO. 47-0103-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-2301 through 33-2306, 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. Increase the maximum fee amounts by \$15.00 each for ophthalmologist/optometrist and audiology services. It is becoming more and more difficult to purchase services at the current rate. Inclusion of Medicaid Allowable allowing the Division to use the Medicaid allowable on payment for services where applicable. The pending rules are being adopted as proposed. The original text of the proposed rules was published in the September 3, 1997 Idaho Administrative Bulletin, Volume 97-9, pages 245 through 248.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Kenneth M. Jones at 1-800-856-2720.

DATED this 23<sup>rd</sup> day of September, 1997.

F. Pat Young, Interim Administrator  
Idaho Division of Vocational Rehabilitation  
650 West State Street, Room 150  
P.O. Box 83720, Boise, Idaho 83720-0096  
(208) 334-3390  
(208) 334-5305 (fax)

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**IDAPA 47  
TITLE 01  
Chapter 03**

**MANAGEMENT SERVICES**

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

**The original text was published in the Idaho Administrative Bulletin, Volume 97-9,  
September 3, 1997, pages 245 through 248.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the 1998 Idaho State Legislature for final adoption.**

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