

IDAHO ADMINISTRATIVE BULLETIN

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February 5, 2003 -- Volume 03-2

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rulemaking documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of a rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Rulemaking Notice published in the Bulletin. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rulemaking activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 02-1 refers to the first Bulletin issued in calendar year 2002, Bulletin 02-1 refers to the first Bulletin issued in calendar year 2002, etc. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. -1 refers to January; Volume No. -2 refers to February; and so forth. Example: The Bulletin published in January of 2003 is cited as Volume 03-1, the December 2002 Bulletin is cited as Volume 02-12. The March 2001 Bulletin is cited as Volume 01-3.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been adopted and approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are not printed in the Administrative Code and are published only in the Bulletin.

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Index of Administrative Rulemaking**, printed in each Bulletin.*

TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process comprises five distinct activities; Negotiated, Proposed, Temporary, Pending, and Final rulemaking. Not all rulemakings consist of all five. At a minimum a rulemaking includes proposed, pending, and final rulemaking. Many rules are adopted as temporary rules when meeting required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate concensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested parties and the agency seek a consensus on the content of the rule. Agencies are encouraged to proceed through this informal rulemaking whenever it is feasible to do so. Publication of the text in the Administrative Bulletin by the agency is optional. This process should lead the rulemaking to the temporary and/or proposed rule stage.

PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency in which the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a notice of proposed rulemaking in the Bulletin. The notice of proposed rulemaking must include:

- a) the specific statutory authority for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation; and*
- g) the deadline for public (written) comments on the proposed rule.*

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule docket. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.

TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) the protection of the public health, safety, or welfare; or*
- b) compliance with deadlines in amendments to governing law or federal programs; or*
- c) conferring a benefit.*

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule.

A temporary rule expires at the conclusion of the next succeeding regular session of the legislature unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

In cases where the text of the temporary rule is the same as that of the proposed rule, the rulemaking can be done concurrently as a temporary/proposed rule. State law requires that the text of a proposed or temporary rule be

published in the Administrative Bulletin. Combining the rulemaking allows for a single publication of the text.

An agency may rescind a temporary rule that has been adopted and is in effect if the rule is being replaced by a new temporary rule or has been published concurrently with a proposed rulemaking that is being vacated.

PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under the regular rulemaking process and remains subject to legislative review before it becomes a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the Notice of Pending Rule. This includes:

- a) the reasons for adopting the rule;*
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) the date the pending rule will become final and effective; and*
- d) an identification of any portion of the rule imposing or increasing a fee or charge.*

Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the Notice of Pending Rule is published.

FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking process and is in effect.

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that the agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution will be adopted rejecting, amending, or modifying the rule or any part thereof. A Notice of Final Rule must be published in the Idaho Administrative Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule that has been reviewed by the legislature and has not been rejected, amended, or modified will become final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule which is final and effective may be applied retroactively, as provided in the rule.

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls and Twin Falls, the Lewiston City Library, East Bonner County Library, Eastern Idaho Technical College Library, BYU Idaho Library, and Northwest Nazarene College Library.

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone (208) 332-1820.

The Administrative Bulletin is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

The Administrative Code, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.

Individual Rule Chapters and *Individual Rulemaking Dockets*, are specific portions of the Bulletin and Administrative Code produced on demand.

Internet Access - The Administrative Code and Administrative Bulletin, individual chapters and dockets, are available on the Internet at the following address: <http://www2.state.id.us/adm/adminrules/>

EDITOR'S NOTE: All rules are subject to frequent change. Users should reference all current issues of the Administrative Bulletin for negotiated, temporary, proposed, pending, and final changes to all rules, or call the Office of the Administrative Rules at (208) 332-1820.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the *Idaho Administrative Bulletin* are organized by a numbering system. Each state agency has a two-digit identification code number known as the "IDAPA" number. (The "IDAPA" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "TITLE" number is assigned. There are "CHAPTER" numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

IDAPA 38.05.01.060.02.c.ii.

"IDAPA" refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

"IDAPA 38." refers to the Idaho Department of Administration.

"05." refers to Title 05 which is the Department of Administration's Division of Purchasing.

"01." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing".

"060." refers to Major Section 060, "Content of the Invitation to Bid".

"02." refers to Subsection 060.02.

"c." refers to Paragraph 060.02.c.

"ii." refers to Subparagraph 060.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER". The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0101). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

"DOCKET NO. 38-0501-0101"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

"0501-" refers to the TITLE AND CHAPTER numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE 05), "Rules of the Division of Purchasing" (Chapter 01).

"0101" denotes the year and sequential order of the docket submitted and published during the year; in this case the first rulemaking action of the chapter published in calendar year 2001.

Within each Docket, only the affected sections of chapters are printed. (See **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

"(BREAK IN CONTINUITY OF SECTIONS)"

INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection that is part of the same rule, a typical internal citation may appear as follows:

"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."

It may also be cited to include the IDAPA, Title, and Chapter number also, as follows:

"...in accordance with IDAPA 38.05.01.201."

"38" denotes the IDAPA number of the agency.

"05" denotes the TITLE number of the agency rule.

"01" denotes the Chapter number of the agency rule.

"201" references the main Section number of the rule that is being cited.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, 'Rules Governing Capitol Mall Parking.'"

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2003

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
03-1	January, 2003	*November 13, 2002	January 1, 2003	January 22, 2003
03-2	February, 2003	December 18, 2002	February 5, 2003	February 26, 2003
03-3	March, 2003	January 22, 2003	March 5, 2003	March 26, 2003
03-4	April, 2003	February 19, 2003	April 2, 2003	April 23, 2003
03-5	May, 2003	March 26, 2003	May 7, 2003	May 28, 2003
03-6	June, 2003	April 23, 2003	June 4, 2003	June 25, 2003
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03-8	August, 2003	June 25, 2003	August 6, 2003	August 27, 2003
03-9	September, 2003	July 23, 2003	September 3, 2003	September 24, 2003
03-10	October, 2003	**August 20, 2003	October 1, 2003	October 22, 2003
03-11	November, 2003	September 24, 2003	November 5, 2003	November 26, 2003
03-12	December, 2003	October 22, 2003	December 3, 2003	December 24, 2003

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2004

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
04-1	January, 2004	*November 12, 2003	January 7, 2004	January 28, 2004
04-2	February, 2004	December 24, 2002	February 4, 2004	February 25, 2004
04-3	March, 2004	January 21, 2004	March 3, 2004	March 24, 2004
04-4	April, 2004	February 18, 2004	April 4, 2004	April 25, 2004
04-5	May, 2004	March 24, 2004	May 5, 2004	May 26, 2004
04-6	June, 2004	April 21, 2004	June 2, 2004	June 22, 2004
04-7	July, 2004	May 26, 2004	July 7, 2004	July 28, 2004
04-8	August, 2004	June 23, 2004	August 4, 2004	August 25, 2004
04-9	September, 2004	July 21, 2004	September 1, 2004	September 22, 2004
04-10	October, 2004	**August 25, 2004	October 6, 2004	October 27, 2004
04-11	November, 2004	September 22, 2004	November 3, 2004	November 24, 2004
04-12	December, 2004	October 20, 2004	December 1, 2004	December 22, 2004

****Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.***

*****Last day to submit proposed rules in order to complete rulemaking for review by legislature.***

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IDAPA 11 - IDAHO STATE POLICE

11.13.01 - THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, 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 Title 67, Chapter 29, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the November 6, 2002, Administrative Bulletin, Volume 02-11, pages 24 and 25.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Margaret P. White at 884-7050.

DATED this 10th day of December, 2002.

Margaret P. White
Deputy Attorney General
Department of Law Enforcement
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)

IDAPA 11, TITLE 13, Chapter 01

THE MOTOR CARRIER RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 02-11, November 6, 2002, pages 24 and 25.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.01 - RULES GOVERNING ELIGIBILITY FOR MEDICAID FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, 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 56-201, 56-202, 56-203, 56-209, 56-209b, and 56-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the November 6, 2002, Administrative Bulletin, Volume 02-11, pages 26 through 35.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Phil Gordon, (208) 334-5818.

DATED this 10th day of December, 2002.

Sherri Kovach
Administrative Procedures Coordinator
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16, TITLE 03, Chapter 01

RULES GOVERNING ELIGIBILITY FOR MEDICAID FOR FAMILIES AND CHILDREN

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-11, November 6, 2002, pages 26 through 35.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO
DOCKET NO. 16-0304-0202
NOTICE OF RULEMAKING
PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: Effective date of this rule is October 1, 2002. This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, 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 39-106(1)(a), 56-202, 56-203, 56-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The URL in Subsections 533.01 and 550.31 are incorrect, the correct address is http://www.fns.usda.gov/fsp/rules/Memo/02/FY02_Allot_Deduct.htm. The original text of the proposed rules was published in the November 6, 2002, Administrative Bulletin, Volume 02-11, pages 36 through 46.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Phil Gordon, (208) 334-5818.

DATED this 10th day of December, 2002.

Sherri Kovach
Administrative Procedures Coordinator
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
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IDAPA 16, TITLE 03, Chapter 04

RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

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 text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 02-11, November 6, 2002, pages 36 through 46.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0304-0202

SUBSECTION 533.01

533. INCOME DEDUCTIONS.

A household is entitled to a deduction when it gets a bill or, if there is no bill, when the payment is due. Only the deductions listed below must be taken from household's gross income: (6-1-94)

01. Standard Deductions. The standard deductions are controlled by Federal law. The monthly amounts are specified in Title 7 United States Code Section 2014. Current deductions may be found at: http://www.fns.usda.gov/fsp/MENU/ADMIN/CERTIFICATIONrules/Memo/02/FY032_Allot&_Deduct.htm.

~~(10-1-02)T~~(10-1-02)T

SUBSECTION 550.31

550. STEPS TO COMPUTE FOOD STAMP PAYMENT.

Use the steps in Subsections 550.01 through 550.38 of this rule to compute the Food Stamp issuance. Do not round figures or calculations of income and deductions in determining gross or net income. (10-1-02)T

31. Step 31. Subtract half adjusted income (Step 22) from amount in Step 30. THIS IS THE EXCESS SHELTER DEDUCTION. If any member of the household is age sixty (60) or disabled, use the full excess shelter allowance. For all other households use the excess shelter deduction up to the maximum specified in Title 7 United States Code Section 2014. Current deductions may be found at: http://www.fns.usda.gov/fsp/MENU/ADMIN/CERTIFICATIONrules/Memo/02/FY032_Allot&_Deduct.htm.

~~(10-1-02)T~~(10-1-02)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM
DOCKET NO. 16-0309-0214
NOTICE OF PUBLIC HEARING AND EXTENSION OF COMMENT PERIOD

AUTHORITY: In compliance with Sections 67-5220(1), Idaho Code, notice is hereby given this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Section(s) 202(b) and 56-203(g), Idaho Code.

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

February 12, 2003
4:00 p.m. to 6:00 p.m.
First Floor Conference Room
Idaho Department of Health and Welfare
Division of Medicaid
3380 Americana Terrace
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 complete summary of this action is found in the Idaho Administrative Bulletin Volume 02-12, pages 83 through 87. This hearing is being held to allow for public comment about changes to the prescription drug rules. The comment period has been extended until February 12, 2003.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the rulemaking, contact Leslie Clement at (208) 364-1840.

The comment period for this rulemaking has been extended. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before February 12, 2003.

DATED this 20th day of December, 2002.

Sherri Kovach
Administrative Procedures Coordinator
DHW – Administrative Procedures Section
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone
(208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0215

NOTICE OF PUBLIC HEARING AND EXTENSION OF COMMENT PERIOD

AUTHORITY: In compliance with Sections 67-5220(l), Idaho Code, notice is hereby given that this agency has scheduled public hearings and extended the period of public comment. The action is authorized pursuant to Sections 56-202(b); 56-203(g), (i), (j); 56-1003(l); 56-1004(l)(a), Idaho Code.

The Department received written requests for hearings on this rulemaking from twenty-five (25) or more persons by the hearing request deadline of December 18, 2002. In compliance with Section 67-5222(2), Idaho Code, public hearings concerning this rulemaking have been scheduled. The comment period has been extended until March 4, 2003.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Tuesday, February 25, 2003 - 6:00 pm - 9:00 pm
Coeur d'Alene Inn and Conference Center
414 West Appleyway, Hayden/Cataldo Room
Coeur d'Alene, Idaho

Tuesday, March 4, 2003 - 4:00 pm - 6:00 pm
Dept. of Health & Welfare Region IV Office
1720 Westgate Dr., Suite D, Room 119
Boise, Idaho

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

DESCRIPTIVE SUMMARY: The summary of this action is found in Idaho Administrative Bulletin Volume 02-12, dated December 4, 2002, pages 88 through 105 and is as follows:

As a result of the reduction in the Targeted Service Coordination (TSC) reimbursement, rulemaking relaxes the requirements for targeted service coordinators to reflect that coordinators will now have less hours available for providing case management services. Specifically, these rules removes all caseload limit requirements, and removes the requirement for availability of a care coordinator on a twenty-four (24) hour basis. These rules also incorporate changes to make requirements more consistent across the different types of case management.

As a result of the reduction in the ESC (Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Service Coordinator) reimbursement, rulemaking removes all caseload limit requirements, and removes the requirement for availability of a care coordinator on a twenty-four (24) hour basis.

Reduces ongoing Targeted Case Management (TCM) for the mentally ill from unlimited hours to a maximum of four (4) hours per month. Also removes all caseload limit requirements, and removes the requirement for availability of a case manager on a twenty-four (24) hour basis. Crisis assistance will no longer be a required core element of targeted case management. These rules also incorporate changes to make requirements more consistent across the different types of case management.

Reduces hours available for initial evaluation and service planning from eight (8) hours to six (6) hours.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Leslie Clement at (208) 364-1840.

The comment period for this rulemaking has been extended. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before March 4, 2003.

DATED this 20th day of December, 2002.

Sherri Kovach, Administrative Procedures Coordinator
DHW – Administrative Procedures Section
450 West State Street, 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM
DOCKET NO. 16-0612-0301 - (FEE RULE)
NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2003.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section(s) 56-201 through 56-233, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the reasons for temporary rulemaking:

This temporary rule change is needed in order for the Department to comply with the required three point five percent (3.5%) holdback imposed by the Governor. The rule change is to increase the sliding fee schedule found in IDAPA 16.06.12.307 by six percent (6%).

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

This temporary rule change is needed in order for the Department to comply with the required 3.5% holdback imposed by the Governor. The rule change will allow the Idaho Child Care Program to save the required \$265,400 in state general funds.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

The rule is being promulgated in order to implement the three point five percent (3.5%) holdback imposed by the Office of the Governor. Section 56-1007, Idaho Code, authorizes the Department to charge and collect reasonable fees. The fee may be determined by a sliding fee scale, which this rule does.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rules, contact Cheryl Bowers at (208) 334-5733.

DATED this 10th day of December, 2002.

Sherri Kovach, Administrative Procedures Coordinator
DHW – Administrative Procedures Section
450 West State Street, 10th Floor
P.O. Box 83720,
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0612-0301

307. SLIDING FEE SCHEDULES.

Eligible families, except TAFI families participating in non-employment TAFI activities, must pay part of their child care costs. (7-1-99)

01. Poverty Rates. Poverty rates will be the established rates published annually in the Federal Register. The monthly rate will be calculated by dividing the yearly rate by twelve (12). (7-1-99)

02. Calculating Family Payment. Families ~~shall~~ **must** pay the provider for child care services. Family income for the month of the child care will determine the family share of child care costs. The payment made by the Department will be the allowable local market rate, less the amount calculated using the sliding fee schedule listed in Table 307.03. (7-1-99)(1-1-03)T

03. Maximum Income And Sliding Fee Schedules:

FAMILY CO-PAYMENT REQUIREMENTS - ICCP SLIDING FEE SCHEDULE									
FAMILY SIZE	2	3	4	5	6	7	8	9	10
MONTHLY INCOME	PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY								
\$0 - \$499	47%	47%	47%	47%	47%	47%	47%	47%	47%
\$500 - \$599	51%	47%	47%						
\$600 - \$699	51%	51%	47%	47%	47%	47%	47%	47%	47%
\$700 - \$799	51%	51%	51%	47%	47%	47%	47%	47%	47%
\$800 - \$899	4521%	51%	51%	51%	47%	47%	47%	47%	47%
\$900 - \$999	4521%	51%	51%	51%	51%	47%	47%	47%	47%
\$1,000 - \$1,099	4521%	51%	51%	51%	51%	47%	47%	47%	47%
\$1,100 - \$1,199	306%	4521%	51%	51%	51%	51%	47%	47%	47%
\$1,200 - \$1,299	306%	4521%	51%	51%	51%	51%	51%	47%	47%
\$1,300 - \$1,399	606%	4521%	4521%	51%	51%	51%	51%	57%	47%
\$1,357 - \$1,399	100%	21%	21%	11%	11%	11%	11%	7%	7%
\$1,400 - \$1,499	100%	306%	4521%	51%	51%	51%	51%	51%	47%
\$1,500 - \$1,599	100%	306%	4521%	4521%	51%	51%	51%	51%	51%
\$1,600 - \$1,699	100%	606%	306%	4521%	51%	51%	51%	51%	51%
\$1,700 - \$1,799	100%	606%	306%	4521%	4521%	51%	51%	51%	51%
\$1,707 - \$1,799	100%	100%	36%	21%	21%	11%	11%	11%	11%
\$1,800 - \$1,899	100%	100%	306%	4521%	4521%	51%	51%	51%	51%
\$1,900 - \$1,999	100%	100%	306%	306%	4521%	51%	51%	51%	51%
\$2,000 - \$2,099	100%	100%	606%	306%	4521%	4521%	51%	51%	51%
\$2,057 - \$2,099	100%	100%	100%	36%	21%	21%	11%	11%	11%
\$2,100 - \$2,199	100%	100%	100%	306%	4521%	4521%	51%	51%	51%
\$2,200 - \$2,299	100%	100%	100%	306%	4521%	4521%	4521%	51%	51%
\$2,300 - \$2,399	100%	100%	100%	606%	306%	4521%	4521%	51%	51%
\$2,400 - \$2,499	100%	100%	100%	606%	306%	4521%	4521%	4521%	51%
\$2,407 - \$2,499	100%	100%	100%	100%	36%	21%	21%	21%	11%

FAMILY CO-PAYMENT REQUIREMENTS - ICCP SLIDING FEE SCHEDULE									
FAMILY SIZE	2	3	4	5	6	7	8	9	10
MONTHLY INCOME	PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY								
\$2,500 - \$2,599	100%	100%	100%	100%	306%	4521%	4521%	4521%	511%
\$2,600 - \$2,699	100%	100%	100%	100%	606%	306%	4521%	+4521%	4521%
\$2,700 - \$2,799	100%	100%	100%	100%	606%	306%	4521%	4521%	4521%
<u>\$2,757 - \$2,799</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>36%</u>	<u>21%</u>	<u>21%</u>	<u>21%</u>
\$2,800 - \$2,899	100%	100%	100%	100%	100%	306%	4521%	4521%	+4521%
\$2,900 - \$2,999	100%	100%	100%	100%	100%	306%	306%	4521%	4521%
\$3,000 - \$3,099	100%	100%	100%	100%	100%	606%	306%	4521%	4521%
\$3,100 - \$3,199	100%	100%	100%	100%	100%	606%	306%	3021%	4521%
<u>\$3,107 - \$3,199</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>36%</u>	<u>21%</u>	<u>21%</u>
\$3,200 - \$3,299	100%	100%	100%	100%	100%	100%	306%	306%	4521%
\$3,300 - \$3,399	100%	100%	100%	100%	100%	100%	606%	306%	4521%
\$3,400 - \$3,499	100%	100%	100%	100%	100%	100%	606%	306%	3021%
<u>\$3,457 - \$3,499</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>36%</u>	<u>21%</u>
\$3,500 - \$3,599	100%	100%	100%	100%	100%	100%	100%	306%	306%
\$3,600 - \$3,699	100%	100%	100%	100%	100%	100%	100%	306%	306%
\$3,700 - \$3,799	100%	100%	100%	100%	100%	100%	100%	606%	306%
\$3,800 - \$3,899	100%	100%	100%	100%	100%	100%	100%	606%	306%
<u>\$3,807 - \$3,899</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>36%</u>
\$3,900 - \$3,999	100%	100%	100%	100%	100%	100%	100%	100%	306%
\$4,000 - \$4,099	100%	100%	100%	100%	100%	100%	100%	100%	606%
\$4,100 - \$4,199	100%	100%	100%	100%	100%	100%	100%	100%	606%
<u>\$4,200157 - \$4,299</u>	100%	100%	100%	100%	100%	100%	100%	100%	100%

* Maximum income for ICCP benefits:
 \$1,356 for household of 2
 \$1,706 for household of 3
 \$2,056 for household of 4
 \$2,406 for household of 5
 \$2,756 for household of 6
 \$3,106 for household of 7
 \$3,456 for household of 8
 \$3,806 for household of 9
 \$4,156 for household of 10

MAXIMUM INCOME (OR ELIGIBILITY FOR PAYMENT) BASED ON 150% OF POVERTY (1998 POVERTY TABLES). (7-1-99)(1-1-03)T

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0301

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 18, 2002.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Section 37-2702(d), Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for temporary rulemaking:

This temporary rule adjusts the schedule of controlled substances in Idaho to match schedule adjustments by the federal Drug Enforcement Administration. The rulemaking moves the substance Buprenorphine from Schedule V (Section 37-2713(b)(1), Idaho Code) to Schedule III. The rulemaking also revises Schedule I to allow specific products containing gamma hydroxybutyric acid to be placed in other schedules, and adds to Schedule III any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under Section 505 of the Federal Food, Drug, and Cosmetic Act.

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

Adoption of the rule as a temporary rule with immediate effect is necessary to comply with deadlines set out in Section 37-2702(d), Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact R.K. "Mick" Markuson, Director, at (208) 334-2356.

DATED this 20th day of December, 2002.

R.K. "Mick" Markuson
Director
Idaho State Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0301

497. TEMPORARY SCHEDULING OF CONTROLLED SUBSTANCES.

Pursuant to the authority vested in the Board of Pharmacy under Section 37-2702(d), Idaho Code: (12-18-02)T

01. GHB - Generally In Schedule I. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the

existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, shall be included in Schedule I of the Controlled Substance Schedules under Title 37, Chapter 27, Idaho Code; Gamma-hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate). (12-18-02)T

02. GHB - Approved Drug Products In Schedule III. Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under Section 505 of the Federal Food, Drug, and Cosmetic Act shall be included in Schedule III of the Controlled Substance Schedules under Title 37, Chapter 27, Idaho Code. (12-18-02)T

03. Buprenorphine Moved From Schedule V To Schedule III. Buprenorphine shall be removed from Schedule V and inserted into Schedule III of the Controlled Substances Schedules under Title 37, Chapter 27, Idaho Code, as hereinafter set forth. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts shall be included in Schedule III of the Controlled Substance Schedules under Title 37, Chapter 27, Idaho Code; Buprenorphine. (12-18-02)T

4978. -- 999. (RESERVED).

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16.03.04 - Rules Governing The Food Stamp Program In Idaho

Docket No. **16-0304-0202**

- 533. Income Deductions. 14
- 550. Steps to Compute Food Stamp Payment. 14

16.06.12 - Rules Governing The Idaho Child Care Program

Docket No. **16-0612-0301** - (Fee Rule)

- 307. Sliding Fee Schedules. 17

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - Rules Of The Idaho Board Of Pharmacy

Docket No. **27-0101-0301**

- 497. Temporary Scheduling of Controlled Substances. 20
- 498. -- 999. (Reserved). 21

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PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

**Because of the moratorium on proposed rulemaking during the legislative session,
there are no proposed rules being promulgated or published in this month's Bulletin**

Please refer to the Idaho Administrative Bulletin, **February 5, 2003, Volume 03-2** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.

Copies of the Administrative Bulletin and other rules publications are available for purchase. For subscription information and ordering call (208) 332-1820 or write the Office of Administrative Rules, Department of Administration, 650 W. State St., Room 100, Boise, Idaho 83720-0306. Visa and Mastercard accepted.

The Idaho Administrative Bulletin and Administrative Code are available on-line at: <http://www2.state.id.us/adm/adminrules/>

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

**This index tracks the history of all agency rulemakings from 1993 to the present.
It includes all rulemaking activities on each chapter of rules
and includes negotiated, temporary, proposed, pending
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