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Director

Legislative Services Office Idaho State Legislature

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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee
FROM: Senior Legislative Research Analyst - Ryan Bush
DATE: September 16, 2013
SUBJECT: Department of Health and Welfare - Medicaid Basic Plan Benefits & Medicaid Enhanced Plan Benefits

IDAPA 16.03.09 - Rules Pertaining To Medicaid Basic Plan Benefits (Docket No. 16-0309-1301)

IDAPA 16.03.10 - Rules Pertaining To Medicaid Enhanced Plan Benefits (Docket No. 16-0310-1301)

(1) IDAPA 16.03.09 - Rules Pertaining To Medicaid Basic Plan Benefits (Docket No. 16-0309-1301)

The Department of Health and Welfare submits notice of temporary and proposed rulemaking at IDAPA 16.03.09 - Rules Pertaining To Medicaid Basic Plan Benefits. The Department states that pursuant to Section 56-261, Idaho Code, passed by the Idaho Legislature in House Bill 260 (2011), it is incorporating managed care waiver changes for behavioral health. The Department further states the following:

- (1) Its submission for a 1915(b) waiver was approved by CMS;
- (2) Rules relating to behavioral health services are being removed from IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits" and incorporated into these rules;
- (3) This rulemaking will integrate mental health clinic services, psychosocial rehabilitative services, service coordination for adults with severe and persistent mental illness, service coordination for children with severe emotional disturbance and substance use disorder services into behavioral health services;
- (4) Specific service limitations are being removed from these rules to allow for behavioral health services to be delivered in an individualized and evidence-based manner under a managed care structure; and
- (5) Requirements are being added to describe the responsibilities of the Department and the managed care contractor in administering the behavioral health managed care delivery system.

Additionally, this rulemaking accomplishes the following:

- (a) Defines the Idaho Behavioral Health Plan (IBHP) and the Prepaid Ambulatory Health Plan (PAHP);
- (b) Limits service selection for those with a PAHP;
- (c) Redesignates "mental health clinic services" as "outpatient behavioral health services" and states that such services shall be contained in the IBHP;

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(d) Provides that all participants who are eligible for Medicaid Basic or Enhanced Benchmark State Plan services are automatically enrolled in the IBHP and may access behavioral health services determined to be medically necessary;

(e) Removes rules formerly relating to mental health clinic services;

(f) Provides for community-based outpatient behavioral health services under the IBHP;

(g) Provides for provider qualifications and procedural requirements for outpatient behavioral health services;

(h) Provides for eligibility for school-based service for psychosocial rehabilitation, behavioral intervention and behavioral consultation, and personal care services; and

(i) Defines a psychosocial rehabilitation specialist in school-based service.

The Department states that negotiated rulemaking was not conducted because this is a temporary rule being done to comply with Section 56-261, Idaho Code, and that a temporary rule is appropriate because this rulemaking confers a benefit. Public hearings were held in Coeur d'Alene on August 20 and in Boise and Idaho Falls on August 21. The American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition, is being incorporated by reference into these rules. The Department states that there will be no fiscal impact to the state general fund associated with this rulemaking.

The proposed rule appears to be consistent with the intent of Section 56-261, Idaho Code, and within the statutory authority granted to the Department in Section 56-202(b), Idaho Code.

(2) IDAPA 16.03.10 - Rules Pertaining To Medicaid Enhanced Plan Benefits (Docket No. 16-0310-1301)

The Department of Health and Welfare submits notice of temporary proposed rulemaking at IDAPA 16.03.10 - Rules Pertaining To Medicaid Enhanced Plan Benefits. The Department states that all rules related to behavioral health services are being removed from these rules and moved into IDAPA 16.03.09 - Medicaid Basic Plan Benefits.

The Department states that negotiated rulemaking was not conducted because this is a temporary rule being done to comply with Section 56-261, Idaho Code, and that a temporary rule is appropriate because this rulemaking confers a benefit. Public hearings were held in Coeur d'Alene on August 20 and in Boise and Idaho Falls on August 21. The Department states that there will be no fiscal impact to the state general fund associated with this rulemaking.

The proposed rule appears to be consistent with the intent of Section 56-261, Idaho Code, and within the statutory authority granted to the Department in Section 56-202(b), Idaho Code.

cc: Department of Health and Welfare - Medicaid Basic Plan Benefits & Medicaid Enhanced Plan Benefits
Tamara Prisock
Carolyn Burt

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2013.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202, 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code.

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

Tuesday, August 20, 2013 6:00 p.m. P.D.T.	Wednesday, August 21, 2013 1:00 p.m. M.D.T.	Wednesday, August 21, 2013 6:00 p.m. M.D.T.
IDHW Region I Office (lrg. conf. room, lower level) 1120 Ironwood Dr., Suite 102 Coeur d'Alene, ID 83814	Medicaid Central Office (conf. rooms D-East & West) 3232 Elder Street Boise, ID 83705	IDHW Region VII Office (2nd fl., large conf. room) 150 Shoup Ave. Idaho Falls, ID 83402

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

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

Section 56-261, Idaho Code, directs the Department to implement managed care tools to develop an accountable care system to improve health outcomes. In order to comply, the State will implement a 1915(b) Waiver that will require Medicaid participants to enroll in a statewide prepaid ambulatory health plan (PAHP). Rule changes are being made to incorporate the managed care waiver changes into these rules.

Rule changes will integrate mental health clinic services, psychosocial rehabilitative services, service coordination for adults with severe and persistent mental illness (SPMI), service coordination for children with severe emotional disturbance (SED), and substance use disorder services into behavioral health services.

All rules related to behavioral health services are being removed from IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits" and moved into these rules. In addition, specific service limitations are being removed from the rule to allow for behavioral health services to be delivered individualized and evidence-based under a managed care structure, and requirements are being added to describe the responsibilities of the Department and the Department's designee (a managed care contractor) to administer the behavioral health managed care delivery system.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because it confers a benefit. In compliance with Section 56-261, Idaho Code, that requires the Department to implement managed care systems whenever possible, these rule changes are necessary in order for the Department to confer the Idaho Medicaid Behavioral Health benefits under the applicable authority.

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

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