



Jeff Youtz
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 25, 2013
SUBJECT: Department of Health and Welfare - Adult Mental Health Services

IDAPA 16.07.33 - Rules Pertaining To Adult Mental Health Services (Docket No. 16-0733-1301)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.07.33 - Rules Pertaining To Adult Mental Health Services. The Department states that the proposed rule provides an administrative review on a case-by-case basis for those who do not receive a criminal history clearance to request a waiver and provides for this waiver to help establish a peer delivery system for providers of adult mental health services. The Department further states that it has received complaints from mental health service providers regarding the current rule as it negatively impacts their workforce and ability to provide mental services. The Department believes that this rule protects the client and acknowledges those who have been successful in their recovery by allowing them to work in mental health. Specifically, this rulemaking accomplishes the following:

- (1) Revises the list of those who must comply with criminal history and background checks;
- (2) Establishes new procedures and availability to work for those who submit to a criminal history and background check;
- (3) Provides for a waiver of criminal history and background check for an individual who receives a denial;
- (4) Designates crimes for which no waiver will be granted;
- (5) Provides for administrative review for a waiver and the process and factors to be considered for such review;
- (6) Provides for employer responsibility; and
- (7) Provides a definition for "Good Cause."

The Department states that negotiated rulemaking was conducted and that a Notice of Intent to Promulgate Rules was published in the April edition of the Idaho Administrative Bulletin, Vol. 13-4, pages 15-16. A public hearing was held in Boise on September 10 with videoconferencing available at each of the Department's regional offices. There is no fiscal impact associated with this rulemaking.

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The proposed rule appears to be within the statutory authority granted to the Department in Sections 56-202(b) and 39-4605, Idaho Code.

cc: Department of Health and Welfare - Adult Mental Health Services
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