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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: July 3, 2014
SUBJECT: Department of Health and Welfare - Criminal History and Background Checks

IDAPA 16.05.06 - Rules Pertaining To Criminal History and Background Checks (Fee Rule) (Docket No. 16-0506-1401)

The Department of Health and Welfare submits notice of temporary and proposed rulemaking at IDAPA 16.05.06 - Rules Pertaining To Criminal History and Background Checks (Fee Rule). The Department states that this rule change is needed to align with legislative intent and rules approved by the 2014 Legislature. Specifically, this rulemaking accomplishes the following:

- (1) Provides that high risk providers of Medicaid and those associated with behavioral health community crisis centers and Idaho behavioral health plans may be subject to criminal history and background checks;
- (2) Redesignates "Mental Health Clinics" as "Mental Health Services";
- (3) Removes psychosocial rehabilitation providers and those at semi-independent group residential care facilities for the developmentally disabled or mentally ill as individuals subject to criminal history and background checks;
- (4) Removes a provision stating that a fee may be assessed when an individual misses a fingerprinting appointment;
- (5) Provides that an employer must print clearance within fourteen calendar days of the clearance being accessible on the Department's website; and
- (6) Allows an employer to use clearance if obtained under certain conditions.

The Department states that a temporary rule is justified because of the Legislature's approval of Department rules that amend classifications of individuals required to have a criminal history and background check. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to the Department in Sections 56-202(b), 56-1004, 56-1004A and 56-1007, Idaho Code.

cc: Department of Health and Welfare
Beverly Barr and Frank Powell

COST/BENEFIT ANALYSIS FORM
Department of Health and Welfare
Administrative Procedures Section (APS)

Docket Number: 16-0506-1401

Agency Contact: Fernando Castro
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Date Analysis Completed: 4/14/2014

IDAPA Chapter Number and Title: IDAPA 16.05.06, "Criminal History and Background Checks"

Fee Rule Status: Proposed Temporary Effective date: 7/1/2014

Instructions:

Section 67-5223(3), Idaho Code, requires that all proposed rules in which a fee or charge is imposed or increased must include a statement of economic impact (cost/benefit analysis) of the rule change at the time the rule text is submitted for publication. This analysis needs to include an estimated cost to the agency to implement the rule and an estimated cost to be borne by citizens, or the private sector, or both.

Cost/Benefit Analysis For This Rule Change:

The Department does not expect to increase the amount of background checks it conducts by a significant number of checks. The fee for the Department's background check is \$65.00 per person. The receipts for the background check fees per fiscal year are figured to be cost neutral for the changes being made to these rules which add, remove, and rename some classifications.

There are no additional costs to be borne by the Department or the State General Fund to carry out the requirements for legislation and adoption of rules because the fees collected are from applicants to cover all costs.

The 2014 Legislature approved amendments for criminal history and background checks (CHC) for statutes and rules under:

- IDAPA 16.07.30, "Behavioral Health Crisis Centers," and Section 39-9109, Idaho Code were added;
- IDAPA 16.03.09, "Medicaid Basic Plan Benefits," for providers determined to be "High Risk Providers" of Medicaid services were added and are currently checked;
- IDAPA 16.03.15, "Semi-Independent Group Residential Facilities for the Developmentally Disabled or Mentally Ill," were removed and not currently being checked;
- IDAPA 16.03.09, "Medicaid Basic Plan Benefits," removed and renamed classifications now required in contract for the Idaho Behavioral Health Plan; and
- IDAPA 16.07.33, "Adult Mental Health Services," and IDAPA 16.07.37, "Children's Mental Health Services," added references to these as they are currently being checked.