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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 - Elizabeth Bowen

DATE: July 06, 2017

SUBJECT: Department of Health and Welfare

IDAPA 16.03.10 - Medicaid Enhanced Plan Benefits - Temporary and Proposed Rule (Docket No. 16-0310-1705)

IDAPA 16.06.01 - Child and Family Services - Temporary and Proposed Rule (Docket No. 16-0601-1701)

The Department of Health and Welfare submits notice of temporary and proposed rulemaking at IDAPA 16.03.10 and 16.06.01.

16.03.10

Section 56-255(3)(e)(ii), Idaho Code, provides that Medicaid recipients who have developmental disabilities are eligible for home-based and community-based services as an alternative to institutionalization. These services have an assigned budget but may exceed the budget when "health and safety issues are identified and meet the criteria as defined in [D]epartment rule." The Department conducts an exception review when it receives a request to exceed the assigned budget.

This temporary and proposed rule revises language relating to exception reviews in order to comply with a settlement agreement in a court case, *K.W. v. Armstrong*. Specifically, the rule eliminates language that restricted exception reviews to certain requests. Negotiated rulemaking was not conducted due to the nature of the rule change, and the Governor finds justification for the temporary rule, as it confers a benefit and protects the health and safety of the recipients. No negative fiscal impact on the state general fund is anticipated. The Department states that this rulemaking is authorized pursuant to Sections 56-202, 56-264, and 56-1610, Idaho Code.

16.06.01

Senate Bill 1164 (2017) appropriated \$839,100 to provide for a 20% increase in foster care reimbursement rates. This temporary and proposed rule revises the rates in accordance with that legislation.

Negotiated rulemaking was not conducted due to the nature of the rule change, and the Governor finds justification for the temporary rule, as it confers a benefit. The appropriation includes \$347,800 in state general fund moneys. The Department states that this rulemaking is authorized pursuant to numerous sections of the Idaho Code, including Section 16-1629, which authorizes the Department to enforce the Child Protective Act.

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